

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5814 OF 2018

The State of Maharashtra and others .. Petitioners

Versus

Chudaman Daga Pawar .. Respondent

Mrs. M. A. Deshpande, Addl.G.P., for Petitioners.
Shri Shrikant S. Patil, Advocate for the Respondent.

**CORAM : S. V. GANGAPURWALA AND
S. M. GAVHANE, JJ.**

DATE : 23RD AUGUST, 2018.

FINAL ORDER :

. The respondent fifteen days prior to his attaining age of superannuation was suspended. The respondent assailed the same by filing Original Application.

2. The learned Additional Government Pleader for petitioners submits that, the respondent assailed order of suspension by filing original application before the Maharashtra Administrative Tribunal. The Tribunal relegated the respondent before the Hon'ble Minister. Hon'ble Minister did not accept the contention of the respondent, as such respondent thereafter again filed fresh Original Application No. 364 of 2014. The same

is allowed and the order of suspension is set aside by the Tribunal under its judgment and order dated 30th January, 2015. The said order is assailed in the present writ petition.

3. Mrs. Deshpande, the learned Additional Government Pleader for petitioners further submits that, order of suspension could not have been set aside after the person is superannuated. According to the learned Addl. G. P. the sanction has been granted for initiating departmental enquiry against the respondent on 09th May 2016 and the departmental enquiry is initiated against the respondent. At the relevant time the respondent was suspended, matter of initiating departmental enquiry against the respondent was under process. The learned Addl. G. P. submits that, manner in which the period of suspension has to be treated would depend upon the out come of the departmental enquiry, as such at this stage the Tribunal ought not have exercised its jurisdiction.

4. Mr. Patil, the learned advocate submits that, the petitioner was given certificate that no enquiry is pending. Even on the date of retirement, no criminal case was also filed against the respondent. The respondent also challenged initiation of departmental enquiry by filing fresh original application as the same is in respect of charges beyond four years.

5. We have considered the submissions canvassed by the learned counsel for respective parties, so also gone through the order.

6. It is not disputed that, the respondent stood retired on attaining age of superannuation on 31.05.2013. The respondent came to be suspended under order dated 17.04.2013. At the time respondent retired no departmental enquiry was initiated, nor any criminal case was filed. On the contrary certificate was issued to the respondent that no enquiry is pending against the respondent. For the first time sanction for initiating departmental enquiry is granted on 09th May, 2016. Almost three years after the respondent stood retired. Upon retirement, there is no question of suspension. On the date when the respondent was suspended no departmental enquiry was pending, nor criminal case was pending against the respondent, nor it is case of the present petitioners that the suspension was by way of punishment. The order of the Tribunal in such circumstances cannot be faulted with.

7. Further one more aspect which requires to be considered is that, order of the Tribunal is dated 30.01.2015 and the same is assailed after lapse of three and half years. No explanation is given for not assailing the same, within reasonable time. It is also submitted that, the respondent has been sanctioned with the

regular pension after the order of the Tribunal has been passed.

8. In view of the above, no case for interference is made out. The writ petition is accordingly dismissed. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

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