

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

928 WRIT PETITION NO. 8180 OF 2018

SAMBHAJI PUNJAJI CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. V.P. Savant h/f Mr.
Bhopi Shivashish V.

AGP for Respondents: Mr. A.P. Basarkar

...

**CORAM : S.V.GANGAPURWALA
AND
SUNIL K.KOTWAL, JJ.**

DATE : JULY 19, 2018

O R D E R :

Issue notice to respondents. Learned AGP
waives service of notice for all respondents.

2. The petitioner assails the order of
Maharashtra Administrative Tribunal thereby rejecting
the Original Application on the ground that the same is
barred by the limitation.

3. Mr. Savant, learned counsel for the petitioner submits that the Tribunal on the ground that the petitioner has challenged the order retiring him with effect from 31.5.2012 has held the Original Application to be barred by the limitation.

4. The Sub Divisional Officer on 18.2.2016 has passed the order retiring the petitioner. The petitioner has not challenged the said order. The respondent had also passed order on 18.2.2016 directing recovery from the petitioner and the said order dated 18.2.2016 is received by the petitioner under the communication dated 31.8.2017 and the Original Application is filed in March, 2018 and the same is well within the limitation. The Tribunal has erroneously considered the case of the petitioner.

5. The learned AGP submits that the order dated 18.2.2016 is assailed. The Original Application is filed in the first week of March, 2018 and same

was barred by limitation of the provisions of Section 21 of the Administrative Tribunals Act.

6. We have considered the submissions.

7. We have also gone through the Original Application. The prayer in the Original Application reads thus :

"B) Allow this Original Application and please quash and set aside the order of recovery dated 18.02.2016 passed by Sub-Divisional Officer, Hadgaon, Dist. Nanded and for that purpose issue necessary order."

On perusal of the said prayer clause, it is manifest that the petitioner has not challenged the order retiring the petitioner. The petitioner has filed Original Application only as against the order dated 18.2.2016 claiming recovery from the petitioner. According to the petitioner, the order dated 18.2.2016 was never communicated to the petitioner and for the first time same was

communicated under communication dated 30.8.2017 and from the said date the Original Application is well within the limitation.

8. The Tribunal has not considered the said aspect of the matter and under misconception that the the petitioner is challenging the order of retirement has passed impugned order. The Tribunal was expected to consider the date of receipt of order by the petitioner as averred by the petitioner in 3E of the Original Application.

9. In the light of above, impugned order is quashed and set aside. The parties are relegated before the Tribunal. The parties shall appear before the Tribunal on 6.8.2018. The Tribunal shall consider the case put forth by the petitioner i.e. challenge to the recovery and date of service of the order on the petitioner and thereafter shall deal with the matter.

10 Rule accordingly made absolute in terms of
above terms. No costs.

[**SUNIL K.KOTWAL, J.**] [**S.V.GANGAPURWALA, J.**]

mahajansb/