

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

WRIT PETITION NO. 14755 OF 2017

Yogesh Gangadharrao Khanke .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Ms. S. A. Dhongade, Advocate for the Petitioner.
Shri A. S. Shinde, A.G.P. for Respondent Nos. 1 to 4.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.
DATE : 14TH FEBRUARY, 2018.**

FINAL ORDER :

. The learned counsel for the petitioner submits that, the petitioner was terminated on 07.12.2011 with effect from 30th November, 2011. The petitioner assailed the order before the Maharashtra Administrative Tribunal (for short "Tribunal"). The original application was partly allowed. The termination order was set aside and the respondents were directed to reinstate the petitioner, however, the Tribunal did not award backwages. As the termination order itself was illegal, the respondents are liable to pay total backwages to the petitioner. The learned advocate submits that, during the relevant period, the petitioner was not under employment and was not gainfully

employed.

2. Mr. Shinde, the learned Assistant Government Pleader for respondents submits that, the petitioner did not pass typing examination within six month, as such was rightly terminated. The Tribunal applied the Government Resolution made applicable to the candidates appointed through selection process. The petitioner was appointed on compassionate ground. The petitioner is not entitled for backwages. The Tribunal has rightly considered said aspect.

3. While setting aside termination of the petitioner, the Tribunal has observed that, the G. R. dated 30th September, 2011 gives two years time to the candidates to pass the typewriting examination after appointment. The Tribunal has further observed that, the candidates who were appointed and serving in the department are given two years time limit for submitting certificate of typing examination. Not only that, the said time limit was further extended by one year, but those who were appointed on compassionate ground were given only six months time. The same amounts to discrimination. The applicant is also entitled to the benefit of G. R. dated 30.09.2011. The said order is not assailed by the State.

4. Considering that the termination was held to be illegal and

the period of termination and reinstatement was almost of four years, we direct the State to pay 50% backwages to the petitioner from the date of termination till reinstatement. The writ petition is accordingly partly allowed. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/Feb. 18