

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

WRIT PETITION NO. 10973 OF 2018

**ANIL MADAN TAMBE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr.S.D.Dhongade, Advocate for the petitioner
Mrs.M.A.Deshpande, AGP for the respondent/State.

**CORAM : S.V.GANGAPURWALA &
S.M.GAVHANE, JJ.
DATED : 01.10.2018**

P.C. :-

The petitioner had participated in the selection process. The petitioner was not issued with the appointment order on the ground that the criminal case is pending against the petitioner. The petitioner challenged said decision by filing original application No.166 of 2012. The original application was dismissed confirming the order of the authority thereby not appointing the petitioner. It appears that subsequently the petitioner is acquitted. After acquittal the petitioner again filed original application seeking appointment. The same is rejected.

2. The learned counsel for the petitioner submits that the petitioner had not suppressed the fact of the pendency of criminal case against him. The subsequent acquittal in the criminal case would be a fresh cause of action for the petitioner to agitate regarding non

appointment.

3. The learned Additional Government Pleader supports the judgment and submits that the petitioner is seeking appointment with regard to the selection process of the year 2011. The earlier original application is dismissed on merits. The petition would be barred by res-judicata.

4. The petitioner was not appointed as per the decision of competent authority dated 19.01.2012. The petitioner challenged the said decision by filing original application 166 of 2012. The original application is dismissed on merits. The petitioner was not appointed on the ground that the criminal case is pending against him. Subsequently acquittal in the criminal case would not be a fresh cause of action for the petitioner to claim appointment pursuant to the selection process of the year 2011. The said post is filled by other candidate from the select list. The Tribunal has not committed any error in passing the impugned order.

5. The Writ Petition is disposed of. No costs.

[S.M. GAVHANE, J.]

[S.V. GANGAPURWALA, J.]