

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

BENCH AT AURANGABAD.

**REVIEW APPLICATION NO.52 OF 2018
IN
WRIT PETITION NO.3964 OF 2016**

Dinesh S/o Atmaram Ishi ... Applicant.

Versus

The State of Maharashtra
and another. ... Respondents.

...
Mr.S.C.Yeramwar, advocate for the applicant.
Mr.A.S.Shinde, A.G.P. for the State.
Mr.B.S.Deokar, advocate for Respondent No.2 in
W.P.

...

**CORAM : S.V.GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

Date : 09.03.2018.

PER COURT :

1. Mr.Yeramwar, learned counsel submits that review is filed only to the extent of non-grant of back wages during the period of suspension.

2. Learned counsel submits that the Respondents have granted salary and the monetary

benefits to similarly situated employee, who was also tried for offence U/s 302 of the I.P.C. and subsequently acquitted. Learned counsel submits that upon the acquittal the consequential benefits would follow which includes payment of back wages. Learned counsel relies on the judgment of the Division Bench of this Court in the case of "**Baban S/o Shriram Wafare Vs. Zilla Parishad**" reported in **2002 (2) Mh.L.J. 390**.

3. The grant of back wages is a discretionary relief. Considering the over-all facts of the case, we had ordered that the suspension period of the petitioner shall be treated as duty period, however, we did not grant back wages and observed that whatever suspension allowance has been paid to the petitioner during the period of suspension shall be sufficient. The Applicant/petitioner was prosecuted for the offence U/s 498-A of the I.P.C. and was subsequently acquitted.

4. Considering the period of suspension, we had considered the petitioner had not worked

during the period of suspension and none the less was paid the subsistence allowance i.e. 50% of the salary. We had not granted back wages. We had exercised the discretion.

5. In view of that, no case for review. The Review Application is disposed of. No costs.

(MANGESH S.PATIL, J.)

(S.V.GANGAPURWALA, J.)

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