

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

WRIT PETITION NO. 5471 OF 2017

Prashant Purushottam Vaidya,
Age 51 years, Occu. Service,
R/o 86, Yashwant Nagar,
Nanded

..Petitioner

Versus

1. The State of Maharashtra,
through the Principal Secretary,
Social Justice and Special
Assistance Deptt., Mantralaya,
Mumbai 400 032
2. The Director of Social Welfare,
Maharashtra State, 3, Church road,
Pune 411 001
- [3] The District Social Welfare Officer, } Deleted as per leave of
Zilla Parishad, Nanded } Court dated 28.4.2017
} and 4.8.2017
- [4] The District Social Welfare Officer, }
Zilla Parishad, Latur }
}
- [5] The District Social Welfare Officer, }
Zilla Parishad, Jalna } ..Respondents

Mr Ajay S. Deshpande, Advocate for petitioner
Mr G.O. Wattamwar, A.G.P. for respondents no.1 and 2
Respondents no.3 to 5 deleted as per Court's leave dated 28.4.2017
and 4.8.2017

**CORAM : S.V. GANGAPURWALA &
A.M. DHAVAL, JJ**

DATE : 11th January 2018

ORAL JUDGMENT (Per S.V. Gangapurwala, J.)

1. Rule. Rule returnable forthwith. With the consent of learned Counsel for the parties, petition is taken up for final disposal at admission stage.

2. The petitioner had filed Original Application before the Maharashtra Administrative Tribunal seeking increments from the year 2000-2001. Along with the Original Application, the petitioner had filed application for condonation of delay. The application is rejected. Aggrieved thereby, the present petition.

3. Mr Deshpande, learned Counsel for the petitioner submits that the petitioner was placed under suspension on 11.7.2000. The suspension was revoked on 7.1.2001. However, the departmental enquiry was initiated. The same came to be concluded in the year 2011. The petitioner was imposed punishment of withholding one increment without affecting future increments. Learned Counsel submits that until and unless the order was passed in the departmental proceedings, his pay could not have been fixed. According to the learned Counsel, even the suspension period whether it is to be treated as a duty period or not could have been decided only after the departmental proceedings have concluded and the increments also would depend upon it. According to him, even the order passed in departmental proceedings is not implemented as yet. According to learned Counsel, though the increments are claimed from 2000-2001, the same could not have been decided before conclusion of the departmental proceedings. As such, it cannot be said that there was an inordinate delay on the part of the petitioner.

4. The learned A.G.P. supports the order and submits that there are no plausible reasons given in the application. The Tribunal has rightly considered the relevant aspects.

5. It is the matter of record that the departmental proceedings were pending against the petitioner since the date of his suspension in the year 2000 and petitioner was imposed punishment in the year 2011. The increments, as claimed by the petitioner also depended upon how the suspension period is treated. That can only be done after the departmental proceedings are concluded.

6. It is trite that when substantial justice and technical consideration are pitted against each other, the cause for substantial justice has to be subserved.

7. Considering the above aspects of the matter, we are inclined to exercise our discretion.

8. The impugned order dated 21.3.2016 passed by the Member, Maharashtra Administrative Tribunal, Bench at Aurangabad in Misc. Application No.117/2016 in Original Application St.no.41/2016 is hereby set aside. Misc. Application No.1176 of 2016 is allowed and if there is no other impediment, the Original Application be registered by the Tribunal.

10. Rule is accordingly made absolute in above terms with no order as to costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)