

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION NO. 2650 OF 2017
IN WRIT PETITION NO.4184 OF 2016

(The State of Maharashtra and others vs. Shri Ganpat s/o Shioram Rakhunde)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri V.P. Marpakwar, Advocate for applicant/
respondent.
Ms. T. Khan, Assistant Government Pleader for
petitioners.

CORAM : B.P. DHARMADHIKARI AND
MRS. SWAPNA JOSHI, JJ.

DATED : JANUARY 16, 2018

The prayer in civil application is to dispose of the petition and permit directions issued by the Maharashtra Administrative Tribunal in its order dated 31/8/2015 in Original Application No.482/2005 to operate.

2) It is not in dispute that Maharashtra Administrative Tribunal by order dated 28/2/2005 had directed petitioners/employer to pass appropriate orders regarding regularisation of period of suspension, pay him consequential arrears and take decision on his representation for time bound promotion. After this direction in Original Application No. 112/2004, respondent filed Original Application No. 482/2005 and in it Maharashtra Administrative Tribunal has set aside order imposing minor penalty of withholding his

promotion and ordered employer to consider him for time bound promotion on merit. Prayer of present respondent (employee) against 25% deduction from his pay and allowances during the period of suspension was rejected.

3) The employer approached this Court in Writ Petition and this Court has on 23/11/2016 passed following order :

“Rule.

Rule made returnable early.

Since the criminal appeal filed by the State Government against the judgment acquitting the petitioner of the charges punishable under the provisions of the Prevention of Corruption Act is pending, the respondent is at liberty to move this Court for an early decision and/or for appropriate orders as soon as the appeal is decided.

The order of the Tribunal is stayed during the pendency of the writ petition.

Learned Counsel Shri Vikram P. Marpakwar waives notice of hearing on behalf of the respondents.”

4) Thereafter Criminal Appeal No. 697/2003 filed by State Government challenging acquittal of employee has been dismissed by this Court on 5/10/2017. Therefore, civil application has been taken out.

5) Though Ms. Khan, learned Assistant Government Pleader for petitioners has submitted that punishment in departmental enquiry was after following proper procedure, Adv. Marpakwar for respondent has

submitted that it is only on account of criminal prosecution and nothing more.

6) We have, therefore, perused papers. Charge-sheet served upon respondent mentions Rule 10 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 and it was for imposing a minor punishment. Records do not show that any witnesses were examined independently and employee was given opportunity to cross-examine them. Thus, on the basis of conduct, which forms subject matter of criminal prosecution, punishment was imposed upon respondent employee. Maharashtra Administrative Tribunal set aside the same and issued consequential orders. Those orders were stayed by this Court in present matter because of pendency of appeal against acquittal. Now that appeal also has been dismissed, with the result, we find that the challenge raised in the writ petition itself now does not merit any further consideration. Accordingly, we dismiss the writ petition. Needless to mention that, therefore, directions issued by the Maharashtra Administrative Tribunal in its order dated 31/8/2015 in Original Application No. 482/2005 revive and operate.

7) Accordingly, Civil Application No. 2650/2017 is allowed and disposed of. Rule is discharged in writ petition. No costs.

JUDGE

JUDGE

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