

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

WRIT PETITION NO. 1368 OF 2019

Ganesh Kashinath Gulve

..... Petitioner

Versus

The State of Maharashtra & Anr.

..... Respondents

.....

Appearance :-

Shri. N. P. Patil-Jamalpurkar, Advocate for the petitioner

Shri. K. B. Jadhavar, AGP for respondent/State

Shri. V. D. Gunale, Advocate for respondent No. 6

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**CORAM : S. V. GANGAPURWALA
AND
ANIL S. KILOR, JJ.**

DATE : 07TH OCTOBER, 2019

PER COURT:-

1. Shri. N. P. Patil – Jamalpurkar, learned counsel for the petitioner submits that, the petitioner retired in the year 2000. The petitioner was sanctioned pension, however, abruptly under the impugned order the pension of the petitioner is stopped on the ground that the petitioner is convicted in a criminal case. According to the learned counsel, the principles of natural justice are violated. The respondents have waived their right. The learned counsel relies on the judgment of the Apex Court in the case of **Rameshwar**

Yadav Versus Union of India [1989 (Supp. 2) SCC 565] to contend that the principles of natural justice are to be followed while stopping the pension. He also placed reliance on the judgment of the Apex Court in the case of State of Punjab Versus K. R. Erry and Sobhag Rai Mehta: Khaushal Singh, P.A.S. [1973 (1) SCC 120].

2. It is a matter of record that the petitioner is convicted for an offence under Section 302 of the Indian Penal Code by this Court in appeal and the said judgment is confirmed upto the Apex Court. The Apex Court has confirmed the conviction of the petitioner u/s 302 of the IPC. The respondents have resorted to an action u/s 27 of the Maharashtra Civil Services (Pension) Rules. The petitioner was convicted under the Judgment of this Court on 25.02.1999 and the same was confirmed by the Apex Court vide judgment dt. 21.08.2002. The pension was sanctioned in the year 2000.

3. It appears that, the petitioner though was convicted in a heinous offence u/s 302 IPC, was continued with the pension. Before abruptly stopping the pension, the petitioner ought to have been given an opportunity to explain. This was more particularly in view of the fact that the petitioner was enjoying the pension for almost 18 years.

4. In the result, we pass the following order.

ORDER

- (a) The petitioner shall construe the impugned order as a show-cause notice.
 - (b) The petitioner shall file reply to the same within a period of six (6) weeks from today.
 - (c) The contents of the impugned order shall be deemed to be the show-cause notice to the petitioner.
 - (d) The petitioner shall reply to the same and shall put forth his stand about the continuation of the pension.
 - (e) Upon receipt of the reply, the authorities shall take decision afresh, preferably within a period of three months from the date of receipt of the reply.
 - (f) The further course of pension would be dependent upon the decision taken by the respondents.
 - (g) If the petitioner so desires, the petitioner may represent himself before the authority.
5. The Writ Petition is accordingly disposed of. No costs.

[ANIL S. KILOR]
JUDGE

[S. V. GANGAPURWALA]
JUDGE