

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2160 OF 2019

SAYYED WALI ABDUL KHADAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Bide Dnyaneshwar A.
AGP for Respondents: Mr. P. S. Patil

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CORAM: S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.

DATE: 27th MARCH, 2019

PER COURT :

1. Heard Mr. Bide, learned counsel for the petitioner and the learned Addtional Government Pleader.

2. The Original Application No. 81 of 2018 filed by the petitioner is rejected only on the ground that the petitioner had earlier filed Original Application No. 405 of 2017 for the same relief.

3. With the assistance of the learned counsel for the petitioner and the learned Addl.G.P. we

have gone through the prayers made in the earlier Original Application No. 405 of 2017 and the instant Original Application No. 81 of 2018. The earlier Original Application 405 of 2017 was filed challenging the recovery claimed by the respondent which it appears has been allowed. In the instant Original Application No. 81 of 2018, the petitioner is basically challenging the order of pay fixation or the communication dated 21.12.2017 i.e. after the disposal of the earlier Original Application. The same basically deals with pay fixation. Of course, the petitioner has also made a prayer with regard to the recovery in the instant Original Application which he could not have made in the wake of order passed in the earlier Original Application No. 405 of 2017. However, there were other reliefs claimed by the petitioner with regard to the pay fixation which ought to have been gone into by the Tribunal. It appears that the Tribunal did not consider the other prayers made by the petitioner and only on

the ground that for the same relief earlier Original Application No. 405 of 2017 was filed, has rejected the Original Application No. 81 of 2018 with costs.

4. It would be proper if the Tribunal examines the relief claimed by the petitioner with regard to the pay fixation on its own merits.

5. In the result, the impugned order is quashed and set aside. The matter is relegated before the Tribunal. The Original Application No. 81 of 2018 is restored to its original position. The parties shall appear before the Tribunal on 08.04.2019.

6. Writ Petition stands disposed of accordingly.
No costs.

[A. M. DHAVAL, J.] [S. V. GANGAPURWALA, J.]

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