

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

Criminal Application (APPA) No.872/2019

In

Criminal Appeal No.214/2012

Shrikant Tambolkar V The State of Maharashtra and another

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

Court's or Judge's orders

Shri Amol S. Mardikar, Adv with Shri A.R. Sharma, Adv for applicant.
Ms Gayatri M. Reve, Adv h/f Shri B.N. Jaipurkar, Adv for non-applicant no.2.
Shri Aashirgade, APP for State.

CORAM : S.M. MODAK, J.

DATE : 09-12-2019.

Heard.

2. Notice was issued to Zilla Parishad for limited purpose. This Court wants to know from Zilla Parishad about the effect of conviction on the retirement benefits. The appellant was already dismissed vide order dated 16-11-2012, after this conviction. This was already informed to this Court vide Pursis bearing Stamp No.5077/2019.

3. Notice was issued because the Court wants to know whether the convicted appellant is entitled to any of the retirement benefits or not? In the reply filed by Zilla Parishad, today, respondent no.2 clarified as follows :-

“It is submitted that retiral benefit cannot be released to a convicted appellant who retires during the pendency of the appeal. The same can be released only if the conviction is quashed and set aside, and if the employee is eligible and entitle to the same in accordance with law.”

4. It suggests that after conviction no retirement benefits

can be released to the appellant. This Court is aware that it will not be proper to issue direction to the employer Zilla Parishad to pay any of the dues. As Zilla Parishad has done its job, they are discharged.

5. There is a prayer for staying the conviction. The conviction was already effected and more than 7 years have lapsed. The appellant is also terminated on the basis of conviction. The judgment in case of *S. Manik Reddy s/o S. Sanganna Reddy vs State of Maharashtra*, reported in *2009 ALL MR (Cri) 164*, deals with a case when the concerned employee was not terminated. In that case, the Court finds that triable case on merits was made out. The ratio laid down therein not applicable to the facts before this Court. For the reason that the facts are different. As the appellant has already been terminated so the prayer for staying the conviction cannot be considered. No exception has been made out.

6. Now, there is a prayer for fixing the matter at an early stage. It can certainly be considered. So the matter be taken up for early hearing in the month of January, 2020. It be fixed on 14-01-2020. In view of above observations, the application is disposed of.

7. Prior to that this matter be fixed on 17-12-2019.

8. Both the parties are directed to apprise the Court about the evidence.

JUDGE