

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7449 OF 2015

Shri Dhananjay Jagannath Teke. ... Petitioner.

V/s.

The Sub-Divisional Officer, Walwa Division,
Islampur and another.

... Respondents.

Mr.Ashok B. Tajane for the Petitioner.

Mr.R.S.Pawar, AGP for the Respondents.

CORAM : **NITIN JAMDAR AND
M.S. KARNIK, JJ.**

DATE : **6 February 2020.**

P.C. :

By this petition, the Petitioner has challenged the order passed by the Maharashtra Administrative Tribunal dated 7 August 2014 to the extent that it refuses back wages to the Petitioner.

2. The Petitioner was working as a Talathi. Criminal proceedings were initiated against him and he was convicted by the Judicial Magistrate, First Class, Jaisingpur, District- Kolhapur. He was proceeded against under section 110 read with 117 of Bombay Police Act, 1951. The conviction was set aside by this Court by

order dated 23 December 2013. Thereafter the Petitioner approached the Tribunal since he was dismissed from service, seeking reinstatement. By the impugned order, the Tribunal referring to the Government Resolution dated 12 June 1986 directed that the Petitioner be reinstated. The Petitioner has now been reinstated and is working. While passing this order, the Tribunal observed that though the Petitioner be reinstated, it shall be without any back wages.

3. Having heard the learned counsel for the parties and perusing the record and the order passed by the Tribunal, we are of the opinion that on the aspect of back wages, the proceedings need to be remanded to the Tribunal as there are absolutely no reason as to why the back wages are denied to the Petitioner. We have not been shown any absolute rule that if the reinstatement is ordered in these circumstances, back wages have to be denied. Therefore, this aspect will have to be considered by the Tribunal. In fact, it is the contention of the Petitioner that very same resolution referred by the Tribunal holds that back wages are ordinarily to be paid. Since there is no discussion on this aspect whatsoever by the Tribunal, it is not possible for us to decide the same for the first time in the writ jurisdiction. On such matters, the Administrative Tribunal is the authority at the first instance.

4. In the circumstances, the impugned order to the extent it denies back wages to the Petitioner is set aside and the Original Application No.531/2011 filed by the Petitioner stands restored to the file of the Tribunal to the extent of deciding the claim of the Petitioner for back wages from 25 June 2011 (the date of dismissal) till 3 September 2014 (i.e. till the date of reinstatement). The contentions of the parties on this aspect are kept open.

5. If an application is made by the Petitioner for early disposal, the Tribunal may consider the same favorably.

6. Writ petition is disposed of in the above terms.

(M.S. KARNIK, J.)

(NITIN JAMDAR, J.)