

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.
WRIT PETITION NO.214/2020
Shrikrushna Maroti Sinhe Vs.State of Maharashtra, and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Chetan Sharma, Advocate with Shri S.PBhandarkar, Advocate for
petitioner.
Shri M.K.Pathan, Assistant Government Pleader for respondents

**CORAM :- DIPANKAR DATTA, C.J. and
A.S.CHANDURKAR, J.**

DATED :- AUGUST 27, 2020

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and video quality was proper.

The petitioner assails the order dated 18th February, 2019 passed by the Maharashtra Administrative Tribunal on Original Application No. 897/2018.

We have heard learned counsel appearing for the parties and perused the material on record.

The petitioner was a public servant. Having been convicted by the Criminal Court under the Prevention of Corruption Act, the employer of the petitioner proceeded to impose penalty on him in accordance with the provisions of Rule 13 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (for short, the Rules). An order dated 14th November, 2018 was passed dismissing the petitioner from service.

In the meanwhile, the petitioner had challenged his conviction in an appeal under Section 374 of the Code of Criminal Procedure, 1973 (for short, 'the Code'). In such appeal, he had applied for suspension of sentence and release on bail under Section 389 of the Code. A learned Single Judge of this Court by His Lordship's order dated 16th February, 2018 admitted the appeal, suspended the sentence and directed release of the petitioner on bail. Upon being released, the petitioner, labouring under a misconception that he had a right to be reinstated in service, approached the Maharashtra Administrative Tribunal by filing the original application. The Tribunal declined to grant any relief owing to pendency of the petitioner's appeal against his conviction before the High Court and adjourned its hearing.

Regard being had to the Rules in question, it is not possible for us to hold that the petitioner has acquired a right to be reinstated in service upon the sentence imposed upon him being suspended by the Court while hearing the application under Section 389 of the Code. Suspension of sentence would not erase the conviction recorded by the Criminal Court. So long as the conviction is not reversed, the petitioner continues to be a convict and can not have any legitimate claim for reinstatement in service. Such claim would arise after reversal of the conviction and that too if the Rules so provide.

For the reasons aforesaid, there is no merit in the petition. The same stands dismissed. There shall be no orders as to costs.

The order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

CHIEF JUSTICE

Andurkar.