

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 WRIT PETITION NO.14544 OF 2019
WITH
WP/14547/2019
WITH
WP/14548/2019

TOLIRAM PHULAJI RATHOD
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY PUBLIC
WORKS DEPT

Mr. Anand D. Kaware, Advocate for petitioner;
Mr. P.S. Patil, AGP for respondent

**CORAM : DIPANKAR DATTA, CJ
AND
MANGESH S. PATIL, JJ**

DATE : October 01, 2021

P.C.

1. Writ Petition No.14544 of 2019 is directed against an order dated 16th October 2019 passed by the Maharashtra Administrative Tribunal, Aurangabad Bench, Aurangabad (hereafter “the Tribunal”, for short) on the petitioner’s original application. While refusing to stay further proceedings of a departmental enquiry into charges framed vide charge-sheet dated 28th April 2017, drawn up under Rule 8 (3) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 against the petitioner, the Tribunal issued notice and fixed the original application for “Final Disposal” on the date specified therein.

2. The contention of the petitioner before the Tribunal was that he retired from service on attaining the age of superannuation on 31st May 2017 and

thereafter, the charge-sheet was served on him. Since disciplinary proceedings prior to his retirement were not instituted, he contended that the charge-sheet is void *ab initio* and consequently, the enquiry that has been initiated is also void.

3. On behalf of the respondents, it was submitted before the Tribunal that after the charge-sheet was drawn up on 28th April 2017 but prior to the petitioner's retirement on superannuation on 31st May 2017, several attempts were made to serve the same on the petitioner but somehow he dodged such service; however, ultimately, the charge-sheet could be served on him on 3rd June 2017, i.e., three days after his retirement.

4. Considering the aforesaid rival submissions, the Tribunal passed the order noted at the beginning of this order. Aggrieved thereby, the petitioner is before us.

5. We have heard learned advocates for the parties and have perused the materials on record. The respondents have asserted that the charge-sheet was drawn up on 28th April 2017 and subsequent attempts to serve the same on the petitioner proved abortive. Since the pleadings before the Tribunal are reportedly complete, we are of the considered opinion that no interference with the order dated 16th October 2019 refusing to grant interim relief to the petitioner is warranted but the Tribunal should examine the rival contentions and decide the original application expeditiously. Interest of justice, thus, would be best served if the Tribunal is requested to dispose of the original application as early as possible leaving the parties to raise all contentions before it.

6. In such view of the matter, this writ petition stands disposed of with a request to the Tribunal to consider and decide the original application with utmost expedition, in accordance with law, preferably within three months of receipt of a copy of this order. No costs.

7. All contentions are left open.

8. If at all for any genuine reason and/or for reasons not attributable to the petitioner, the Tribunal is disabled from disposing of the original application within three months, as aforesaid, we grant liberty to the petitioner to apply for interim relief before the Tribunal.

9. Since questions of fact and law raised in Writ Petition Nos.14547 of 2019 and 14548 of 2019 are similar to those raised in Writ Petition No.14544 of 2019, which we have disposed of minutes before, the same order shall govern the other two writ petitions.

[MANGESH S. PATIL, J.]

[CHIEF JUSTICE]

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