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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 18416 OF 2022
IN
REVIEW PETITION NO. 84 OF 2022
WITH
REVIEW PETITION NO. 84 OF 2022
IN
WRIT PETITION NO. 6963 OF 2021**

Shri Dnyaneshwar Laxman Awate .. Petitioner

Vs.

The Special Inspector General of
Police, Konkan Range & Ors. .. Respondents

Mr. Mukesh M. Vashi, Senior Advocate, i/by M. P. Vashi
Associates for petitioner.
Mr. M. M. Pabale, AGP for State.

**CORAM: DIPANKAR DATTA, CJ. &
M. S. KARNIK, J.**

DATE : DECEMBER 2, 2022

P.C.:

INTERIM APPLICATION NO.18416 OF 2022:

- 1.** This is an application for condonation of delay of four days in presentation of the petition for review of the order dated 21st July, 2022 in Writ Petition No. 6963 of 2021.
- 2.** Cause shown is sufficient. The delay is condoned and the application allowed without, however, any order as to costs.

REVIEW PETITION NO. 84 OF 2022:

1. This is an application for review of the order dated 21st July, 2022 in Writ Petition No. 6963 of 2021, whereby the writ petition was allowed and the order under challenge was set aside with the result that the original application filed by the review petitioner before the Maharashtra Administrative Tribunal, Mumbai being Original Application Nos. 28 of 2018 and 938 of 2018 stood dismissed.

2. The question that emerged for a decision before us was, who is the appointing authority of the review petitioner and whether he had proceeded to take disciplinary action against the review petitioner. On perusal of the documents placed on record, it was held that the review petitioner was appointed by the Deputy Inspector General and Deputy Director, Police Academy.

3. While allowing the writ petition, we had relied on the Bombay Police Manual, 1959 (hereafter "the 1959 Manual", for short). Mr. Vashi, learned senior advocate appearing for the review petitioner has drawn our attention to the Maharashtra Police Sub Inspector Recruitment Rules, 1995 (hereafter "the 1995 Rules", for short), which were framed in supersession of previous orders/rules. According to him, reliance placed by us on the 1959 Manual was inapt since it ceased to exist once the 1995 Rules came into existence.

4. Even if we accept Mr. Vashi's contention that the 1959 Manual should not have been looked into by us, that does not advance the case of the review petitioner since there

were other reasons for which we had held the Tribunal's order to be indefensible. In other words, the order under review was not based only on the provisions of the 1959 Manual but other records which inter alia included the service book of the review petitioner and the initial order of appointment on probation.

5. We are, therefore, not impressed that only because the 1959 Manual was considered and not the 1995 Rules, the review petitioner has set up a case of error apparent on the face of the record. Discounting the 1959 Manual, the result would be the same.

6. Next, Mr. Vashi has drawn our attention to the reply affidavit filed on behalf of the respondent no.1/State of Maharashtra in Original Application No.409 of 2018. Our attention was drawn to paragraph 10.3 of such affidavit wherein it has been pleaded as follows: -

"10.3 I further say that the Police Sub-Inspector post is in the Group-B (Non-gazetted) and the appointment authority of the said post is the Director General and Inspector General of Police, Maharashtra State....."

7. It is on the basis of such an averment that Mr. Vashi further urges us to hold that there is an error apparent on the face of the record of the order under review.

8. We are afraid, the contention cannot be accepted. Whatever has been averred in an affidavit filed in different proceedings cannot provide guidance for us to hold in favour of the review petitioner, particularly, when all materials pertaining to his service, including service book, were looked into by us at the time when the writ petition

was allowed by the order under review. For the same reasons, we see no reason to hold in favour of the review petitioner on the basis of information provided to him under the Right to Information Act, 2005.

9. Finally, our attention is drawn to two clauses of the letter of appointment where it is specifically provided in which cases the Director General and Inspector General of Police, Maharashtra State would be the authority to order termination of service. The referred clauses apply to those probationers who fail to satisfactorily complete the probationary period within the period originally specified or within such extended period as the Director General grants in each particular case. The petitioner admittedly completed the period of probation and, therefore, such clauses have no application here.

10. We see no reason to entertain the review petition. The same is dismissed. No costs.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)

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Signed by
PRAVIN
DASHARATH
PANDIT
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