

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.11843 OF 2023

**SHAMKANT DATTYATRAY GAWANDE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

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Advocate for the Petitioner : Shri Mane Dhananjay A.
AGP for Respondents 1 to 4/State : Shri S.K. Tambe

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**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 26th September, 2023

Per Court :-

1. The Petitioner is in Government service. He seeks reliefs in relation to his service conditions. However, after the Petitioner had approached the learned Tribunal in Original Application No.811/2023, he has withdrawn the same on 05.09.2023.

2. The learned AGP points out Section 3(q), Section 15(1)(a) and Section 20 of the Administrative Tribunals Act, 1985, which read as under:-

- “3. *Definitions.—In this Act, unless the context otherwise requires,—*
(q) *“service matters”, in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within*

the territory of India or under the control of the Government of India, or, as the case may be, of any corporation [or society] owned or controlled by the Government, as respects—

- (i) remuneration (including allowances), pension and other retirement benefits;*
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;*
- (iii) leave of any kind;*
- (iv) disciplinary matters; or*
- (v) any other matter whatsoever;”*

“15. Jurisdiction, powers and authority of State Administrative Tribunals.—

- (1) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to—*
 - (a) recruitment, and matters concerning recruitment, to any civil service of the State or to any civil post under the State;”*

“20. Applications not to be admitted unless other remedies exhausted.—

- (1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.*
- (2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,—*
 - (a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or*
 - (b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to*

the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be of one of the remedies which are available unless the applicant had elected to submit such memorial.”

3. In the light of the above, this Court cannot entertain a Petition with regard to the service benefits sought by the Petitioner.

4. We do not find that Section 20 would be an impediment for the Petitioner to approach the learned Maharashtra Administrative Tribunal.

5. The learned AGP submits that the pending proposal of the Petitioner dated 02.08.2023 can be considered by the competent authority.

6. In view of the above, **this Writ Petition is disposed off.** Let Respondent No.2 deal with the said proposal in accordance with the provisions of law, within 90 days from today.