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

WRIT PETITION NO. 3387 OF 2023

Shekoba Narayan Tele

.. Petitioner

Versus

Government of Maharashtra & Ors.

.. Respondents

Mr. Om M. Lonkar a/w Ms. Advaita M. Lonkar for
petitioner.

Mr. M. M. Pabale, AGP for State.

**CORAM: S. V. GANGAPURWALA, ACTING CJ. &
SANDEEP V. MARNE, J.**

DATE: MARCH 30, 2023

P.C.:

- 1.** The petitioner had approached the Maharashtra Administrative Tribunal, Mumbai (hereafter "the Tribunal", for short) by filing Original Application challenging the orders dated 7th October, 2003 and 17th January, 2014 thereby not treating the suspension period as a duty period. The petitioner also sought consequential monetary benefits.
- 2.** There was delay of about six years in filing the Original Application. The Tribunal rejected the application for condonation of delay. Aggrieved thereby, the present writ petition.
- 3.** Admitted fact is that the petitioner was under suspension from 1st April, 1987 to 27th August, 2001 and 1st September, 2001 to 21st September, 2002. The petitioner attained the age of superannuation on 31st May, 2010. It is

not disputed that no departmental inquiry was initiated against the petitioner and the petitioner was allowed to retire.

4. As no departmental inquiry was ever initiated against the petitioner nor the petitioner was issued with any punishment in the departmental inquiry, in fact, there was no reason for the respondents not to consider the suspension period as a duty period.

5. Considering the aforesaid fact, we have considered the submissions of the petitioner and the respondents on merits.

6. Perusal of the factual matrix of the present case shows that the petitioner was not diligent. There was delay on the part of the petitioner in approaching the Tribunal. It is also not disputed that the petitioner had rendered a long service with the respondents and the petitioner retired on attaining the age of superannuation. The petitioner was working as a Talathi.

7. Considering the aforesaid conspectus of the matter, we are not inclined to grant salary to the petitioner for the period the petitioner was under suspension. However, the said period shall be considered for pensionary benefits. That would be doing substantial justice to both the parties.

8. In light of above, we pass the following order: -

ORDER

The respondents shall consider the period from 1st April, 1987 to 27th August, 2001 and 1st September, 2001 to 21st September, 2002 as duty period. However, the petitioner will not be entitled for salary for the said period. But, the said period shall be counted for the purpose of pension and all consequential benefits thereon.

9. With these observations, the writ petition is disposed of.
No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)

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