



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

WRIT PETITION NO.8056 OF 2019

Riyaz Uddin Fakruddin Ahemad

.. Petitioner

..Versus..

The State of Maharashtra and others

.. Respondents

Mr. A.S. Bhendarkar, Advocate for the petitioner,
Mr. S.A. Ashirgade, Additional Government Pleader for
respondent nos.1 to 3.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
A.S. CHANDURKAR, J.**

DATE : 19th OCTOBER, 2023.

P.C.

Heard the learned counsel for the petitioner and the
learned Additional Government Pleader representing the
respondent nos.1 to 3.

2. Under challenge in this writ petition is the judgment
and order dated 13th March, 2018 passed by the Maharashtra
Administrative Tribunal (hereinafter referred to as 'Tribunal') in
O.A. No.941/2017 which was instituted by the petitioner
challenging the decision/proposal dated 21st August, 2017

whereby the departmental enquiry was initiated against him. The challenge has also been made in this petition is to the order of punishment of recovery dated 18th April, 2019, which was passed on conclusion of the enquiry.

3. So far as the challenge to the order passed by the learned Tribunal is concerned, we find that though initially while instituting the original application, the petitioner had challenged the decision to initiate the departmental enquiry against him, however, at the time of final hearing of the proceeding before the Tribunal, the said challenge was given up by the petitioner and the petitioner confined his prayer for expeditious completion of the departmental proceedings against him, within six months and also to pay him provisional pension for six months.

4. Having regard to aforesaid prayers, the Tribunal disposed of the original application by means of the impugned order dated 13th March, 2018, whereby it was directed that the departmental proceedings against the petitioner shall be completed within six months and he shall also be paid provisional pension. Thus, the petitioner having given up the challenge to the decision to initiate departmental proceeding against him dated 21st August, 2017 before the Tribunal cannot now be permitted to agitate the same. We thus do not see any

illegality in the order dated 13th March, 2018 passed by the Tribunal.

5. As far as the order of punishment of recovery dated 18th April, 2019 is concerned, we are of the opinion that the same should be challenged by the petitioner before the Tribunal itself.

6. Accordingly, we provide that the petitioner shall be at liberty to challenge the said order of punishment of recovery dated 18th April, 2019 before the Tribunal by instituting appropriate proceedings. If any such proceedings are instituted by the petitioner before the Tribunal challenging the order dated 18th April, 2019, the same shall be decided in accordance with law on merits without insisting upon the limitation, for the reason that all these years, this petition has been pending wherein challenge was made also to the order dated 18th April, 2019.

7. The writ petition thus stands disposed of finally in aforesaid terms.

(A.S. CHANDURKAR, J.)

(CHIEF JUSTICE)