



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

21 WRIT PETITION NO. 5986 OF 2024

NARESHCHANDRA SUBHASH JOSHI

VERSUS

THE STATE OF MAHARASHTRA THROUGH DIVISIONAL
COMMISSIONER AND ANOTHER

...

Mr. Shelke Avishkar S., Advocate for the Petitioner

Mr. S. K. Tambe, AGP for Respondent No.1 State

Mr. R. N. Jain, Advocate for Respondent No.2-ZP

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

DATE : 25th June, 2024

ORDER:

1. We have heard the learned Advocates for the Petitioner and the Zilla Parishad.

2. The issue raised in this Petition is only with regard to the suspension period to be considered as duty period. The Petitioner has addressed a representation to the Chief Executive Officer, Zilla Parishad, Nandurbar, dated 13.09.2023/11.03.2024. He informs the said authority that Criminal Case No. 239 of 2023 has been disposed off vide judgment dated 07.01.2023 and the Petitioner has been acquitted of the offences charged to have been committed by him. He, therefore, prayed that the period of suspension from 03.11.2009 until his reinstatement on 05.12.2013, should be treated as "on duty".

3. The learned Advocate for the Zilla Parishad submits that the Zilla Parishad is likely to challenge the judgment of acquittal. Such appeal against acquittal has still not been filed.

4. There is no dispute that the departmental enquiry conducted against the Petitioner has resulted in his exoneration and no charge is said to have been proved against him with regard to the pending criminal case. The enquiry officer has opined that as the criminal proceedings are being conducted before the competent court, the enquiry officer need not deal with the said issue in the enquiry. Merely because the Zilla Parishad contemplating filing of an appeal against the acquittal would not mean that the Petitioner's applications for converting the suspension period into duty period, could be ignored or kept aside.

5. In view of the above, **this Writ Petition is partly allowed.**

6. The impugned communication 18.03.2024, is quashed and set aside and the Chief Executive Officer, Zilla Parishad is directed to consider the representation of the Petitioner dated 13.09.2023, strictly in accordance with the rules applicable and arrive at a decision on or before 31st July, 2024. Such decision shall be communicated to the Petitioner within 15 days thereafter.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)