



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 WRIT PETITION NO. 6460 OF 2024

ASHOK MOHANRAO WADKUTE
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY AND ANOTHER

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Advocate for the Petitioner : Mr. Tukaram Maruti Venjane
Addl. GP for Respondents/State : Mr. M.M. Nerlikar
Advocate for R/2 : Mr. B.B. Bhise

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CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 5th July, 2024

PC. :-

1. The Petitioner has put forth prayer clauses (B) and (C), which read as under :-

B) By issuing writ of mandamus of any other appropriate writ in the like nature, the respondent No. 2 may kindly be directed to grant continuity and release the suspension allowance for the period from 05.03.2013 to 19.11.2019 and further to release the annual increments and promotional benefits of the petitioner, within stipulated period, preferably within a period of 2 months from passing order by this Hon'ble Court.

C) Pending hearing and final disposal of this Writ Petition, the respondent No. 2 may kindly be directed to release the suspension allowance for the period from 05.03.2013 to 19.11.2019.

2. The learned Advocate for the Petitioner submits that, though the Petitioner was charged for having committed certain offences, he has been

acquitted by the Court having criminal jurisdiction. The Appeal against acquittal, is pending.

3. The learned advocate for the Petitioner submits that the Petitioner would be satisfied if the calculations in terms of prayer clause-B, are made by the Zilla Parishad and the amounts are released within a timeline. The learned advocate for the Zilla Parishad submits that the Petitioner has been acquitted and the appeal against acquittal by the State is pending adjudication. He, therefore, submits that the Petitioner may be directed to tender an undertaking that if the acquittal gets converted into his conviction, he would be liable to suffer the consequences.

4. In the light of the facts as recorded above and keeping in view that an appeal against the acquittal is pending adjudication, the Petitioner need not be made to suffer the rigours of litigation, though we intend to pass an equitable order.

5. In view of the above, **this Writ Petition is partly allowed.** The Petitioner shall tender an affidavit undertaking to the Employer Respondent No.2/Zilla Parishad, Dharashiv, within a period of 30 days from today, stating therein that, if his acquittal is converted into conviction, and/or if the Departmental Enquiry is resumed and an adverse order is passed, he would

return the residual amount of suspension, difference in the salary minus suspension allowance and any other increments/promotional benefits, etc., if the Petitioner is promoted, within a period of four weeks. All consequences flowing from such conversion of acquittal into conviction, would bind the Petitioner to the extent of the monetary reliefs that he would receive by virtue of this order which is based upon his acquittal and the postponement of the DE.

6. After an affidavit undertaking is filed, satisfying the above stated ingredients, the Employer/Zilla Parishad would initiate steps for granting the benefits to the Petitioner in terms of prayer clause (B) and the payment would be made within a period of twelve weeks from the date of the filing of the affidavit undertaking by the Petitioner.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]