



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

WRIT PETITION NO.4574 OF 2016

Nasir s/o Sardar Shaikh

... **PETITIONER**

VERSUS

The State of Maharashtra & ors.

... **RESPONDENTS**

.....
Mr. M.B. Ubale, Advocate for petitioner
Mr. S.G. Sangle, A.G.P. for respondent No.1.
Mr. C.K. Shinde, Advocate for respondent No.2.
.....

**CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ.**

DATE : 2nd SEPTEMBER, 2025

ORDER :

Heard. The petitioner had joined the services as a Junior Clerk on the establishment of the District Court, Ahmednagar way back on 27/2/1978. In the course of time, he was promoted to the post of Senior Clerk in February 1986 and then conferred with the promotion of the post of Assistant Superintendent in September 1996. In the year 2002, the petitioner was subjected to a departmental enquiry. In the

departmental enquiry, the charge was proved against him and, therefore, the disciplinary authority imposed the penalty of reversion to the rank i.e. from Assistant Superintendent to Senior Clerk. The order of the disciplinary authority is dated 16/10/2006. The petitioner thereafter preferred Administrative Appeal unsuccessfully. He then approached this Court in the Writ Petition, but was unsuccessful therein as well. He, therefore, approached the Apex Court in Civil Appeal No.1733/2010 (Arising out of Special Leave Petition (Civil) No.17719/2008). His Civil Appeal was allowed in terms of the following order :

“Heard learned counsel for the parties.

The appellant was working as Assistant Superintendent in the Court of Civil Judge, Junior Division, Newasa in the State of Maharashtra. It was alleged that, 86 charge sheets and 28 N.C. cases were kept in the office without registering them. A disciplinary proceeding initiated against the appellant and in the enquiry it was found that the allegation was true and the appellant was reverted to the rank of Senior Clerk. This order was passed on 16/10/2006.

The learned counsel appearing for the appellant submitted that this punishment is disproportionate and it should not be ‘reversion to a lower rank for indefinite period’. The contention of the appellant appears to be correct. Now, three and half years has already elapsed after the imposition of the

punishment. We make it clear that the reversion of the appellant from the Assistant Superintendent to the Senior Clerk shall be restricted for a period already elapsed. The appellant shall be given the posting as Assistant Superintendent, the post he held prior to the reversion, with all attendant benefits with immediate effect.”

2. In spite of the order passed by the Hon’ble Supreme Court, the respondents did not implement the same till date. The petitioner filed this petition impliedly asking for implementation of the order of the Apex Court. The petitioner has, however, urged in the Writ Petition for grant of monetary benefits attached to the post of Assistant Superintendent since the day of the order of his reversion was passed in the departmental enquiry. He has also urged for grant of consequential promotions and monetary benefits attached thereto.

3. After having heard learned Advocate for the petitioner and the learned Advocate for respondents and learned A.G.P. as well, we find the order of the Apex Court to have not yet been implemented. The Apex Court granted the petitioner relief of restoring his position as Assistant Superintendent with effect from the date of the order i.e.

15/2/2010 with all attendant benefits. Since the said order has not been implemented, the petition to that extent needs to be allowed.

4. While the Court expressed disinclination to grant the petitioner other reliefs beyond the order of the Apex Court, learned Advocate for the petitioner came around to waive those benefits and restrict the claim of the petitioner to the extent of implementation of the order passed by the Apex Court in the Civil Appeal. Learned Advocate for the respondent No.2 did not object to the same.

5. In view of the above, the Writ Petition stands partly allowed in terms of the following order :

ORDER

- (i) The respondent No.2 shall notionally restore the petitioner's position as Assistant Superintendent w.e.f. 16/2/2010 and grant him all the monetary benefits (minus amount already paid to him) and pay-scale attached thereto with accrued increments in terms of the respective Pay Commission recommendations till

the date of his superannuation and fix the pension of the petitioner accordingly as well.

- (ii) If the exercise is not done within a period of six months from the date of this order, the dues payable to the petitioner shall carry interest at the rate of 6% p.a. from the date of this order to the date of payment thereof.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

FMPathan/-