



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8868 OF 2022

Shukracharya Gokul Dudhal

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....
Mr. K.R. Doke, Advocate for petitioner
Ms. V.S. Chaudhari, A.G.P. for respondents
....

CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ.
DATE : 15th JULY, 2025

PER COURT :

Heard learned counsel for the petitioner and learned A.G.P. for all the respondents.

2. The challenge in this petition is to order dated 14th June, 2022 passed by learned Maharashtra Administrative Tribunal, Mumbai, Bench at Aurangabad ('the Tribunal') thereby dismissing the Original Application No. 941 of 2019. The brief factual aspects, which are not in dispute, are as follows :-

The petitioner was appointed as Project Officer in the Tribal Development Department, Yawal, Dist. Jalgaon. He cleared the necessary departmental examination. One complaint was filed against the petitioner for

committing irregularities. The complaint was enquired into by the competent authority. One criminal case came to be registered against the petitioner for misappropriation. Services of the petitioner came to be terminated by order dated 18th January, 2018, without conducting departmental enquiry. After termination, a notice dated 29th October, 2018 was issued to the petitioner for initiating departmental enquiry. The petitioner approached the Tribunal by filing Original Application No. 126 of 2018 with following prayers :-

- “(A) This Original Application, may kindly be allowed.*
- (B) The impugned Order/Government Resolution issued by the respondent no.1 dtd. 18th Jan-2018 (Annexure-A-9) may kindly be quashed and set aside.*
- (C) By issuing necessary directions or orders like in nature, the respondents may kindly be directed for confirming the services of the applicant after completion of his successful probationary period on 08/01/2015, by taking into account that, neither these authority has extended the probation period nor intimated in this regard to the applicant till 05/10/2015, by assuming that, the services of the applicant has been deems to be confirmed.*
- (D) By issuing necessary direction to Respondent No.1 for reinstating the applicant in service on his original post, in the interest of justice.*
- (E) Any other equitable relief, in favour of the applicant, as this Hon’ble Court deems fit, may kindly be awarded in the interest of justice.”*

3. The said application was disposed of by order dated 09th July,

2019, which reads thus :-

“2. With the consent of both the sides, the present O.A. is disposed of.

3. During the hearing the learned Advocate for the applicant has submitted a copy of representation dated 1.7.2019 addressed by the applicant to the Hon’ble Minister, Tribal Development Department. It is taken on record and marked as document ‘X’ for the purpose of identification. Learned Advocate for the applicant submits that the applicant would be satisfied if the said representation is decided by the Government within a period of 2 months.

4. In the circumstances, the concerned respondents are directed to decide the representation of the applicant dated 1.7.2019 within a period of 2 months from the date of this order and communicate the decision thereon to the applicant in writing.

5. In view of above observations, the present Original Application is disposed of with no order as to costs.”

4. The petitioner filed the representation before the competent authority pursuant to the said directions of the Tribunal. The petitioner’s representation came to be rejected by order dated 21st September, 2019. Thereafter, the petitioner again approached the Tribunal by filing Original Application No. 941 of 2019 which came to be disposed of by the impugned judgment and order dated 14th June, 2022.

5. It is clear from the above aspect that by order dated 09th July,

2019, the learned Tribunal had directed the concerned authority to decide the representation of the petitioner within stipulated time. It is admitted position that the Tribunal had not touched merit of the case in that order. After representation of the petitioner came to be rejected, he once again approached the Tribunal by Original Application No.941 of 2019, which came to be dismissed with following observations :-

“1. This Original Application has been filed by one Dr. Shukracharya Gokul Dudhal on 14.10.2019 invoking provisions of S. 19 of the Administrative Tribunals Act, 1985 essentially challenging following two orders passed by Respondent No.1 and praying for reinstatement, confirmation and grant of all consequential benefits:

- i. Termination order dated 18.01.2018 passed by Respondent No.1 which had been challenged by the applicant by filing Original Application No. 126 of 2018 before this Tribunal and the same was decided by this Tribunal vide order dated 09.07.2019 allowing the prayer of the Applicant.*
- ii. Order passed by Respondent No.1 dated 21.09.2019 in compliance with the order of this Tribunal in Original Application No. 126 of 2018.*

2. On perusal of records relating to the Original Application No.126 of 2018 it is found that this Tribunal had passed following order on 09.07.2019:

3. It is a matter of record that the respondents have decided the representation made by the applicant and communicated the same in writing to the applicant vide letter No. सेवास-2018/प्र.क्र. 16/15, Dated- 21st September 2019 in full compliance with the order passed by this Tribunal in O.A. No.

126/2018 on 09.07.2019, considering submissions made by the applicant and accordingly allowing the prayer of the applicant made before the Tribunal.. Therefore, no cause of action for filing the present O.A. survives.

4. Therefore, in our considered opinion, this Original Application is of the nature of re-agitating the cause of action which has been finally adjudicated allowing the prayer of applicant in O.A. No.126/2018 vide this Tribunal's order dated 09.07.2019 and as such, the same is devoid of merit. Accordingly, following order is passed:-

ORDER

- A. The Original Application No.941 of 2019 is devoid of merit and therefore, being dismissed.*
- B. No order as to costs.*

6. The above referred impugned order is clearly unsustainable as the learned Tribunal had not gone into the merits of the case and dismissed the same by holding that the applicant had again approached agitating the same cause of action which was finally adjudicated in earlier original application. There is nothing to support the said conclusion drawn by the learned Tribunal. The first Original Application No. 126 of 2018 was disposed of by directing the concerned. The second Original Application, No. 941 of 2019 was against the decision taken by the competent authority on the petitioner's representation and for consequential relief of setting aside the earlier termination order. It is clear that the original application is disposed of without touching the merits of the case. In these circumstances, the only

proper cause of action would be to remand the matter to the learned Tribunal for considering and deciding the same on its merits and in accordance with law and we direct so. Since the said original application is of 2019, we expect that the Tribunal shall decide the same within one year from the date of receipt of this order.

7. In view of above, writ petition stands disposed of.

(NEERAJ P. DHOTE, J.)

SSD

(R.G. AVACHAT, J.)