

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3948 OF 2017

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RAMESH
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The Chief Executive Officer,
Zilla Parishad, Solapur

... Petitioner

V/s.

Dhiraj Krishna Rathod & Anr.

... Respondents

Mr. Anand S. Kulkarni for the petitioner.

Mr. R. K. Mendadkar for respondent No.1.

Ms. Kavita N. Solunke, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 12, 2025

P.C.:

1. The challenge in this writ petition is directed against an order passed by the State Government, which mandated the reinstatement of the petitioner under Rule 70(2) of the Maharashtra Civil Services (Joining Time, Foreign Service and Payments during Suspension, Dismissal and Removal) Rules, 1981. In addition to the petitioner's reinstatement, respondent No.2 issued a direction whereby the entire period of dismissal from service was to be treated as continuous service for the purpose of Rule 70(3) of the said Rules.

2. The Appellate Court, by its impugned order, set aside the order of conviction and sentence passed by the Magistrate, relying

on a compounding application filed by the accused and the complainant. In view of the compromise entered into between the parties, respondent No.1 was accordingly acquitted of all charges punishable under Sections 354 and 323 of the Indian Penal Code, 1860.

3. The acquittal of respondent No.1 forms the basis upon which the revision is partly allowed by respondent No.2. In this regard, respondent No.2, through the impugned order, directed the reinstatement of respondent No.1 and further provided that the service rendered by respondent No.1 be treated as continuous.

4. For the purpose of examining the validity of Clause (3) of the order dated 9 October 2015, it is necessary to extract Sub-rule 70(3) of the Maharashtra Civil Services (Joining Time, Foreign Service and Payments during Suspension, Dismissal and Removal) Rules, 1981, which is reproduced below for clarity:

“70. Regularisation of pay and allowances and the period of absence from duty where dismissal, removal or compulsory retirement is set aside as a result of appeal or review and such Government servant is re-instated.—

(1) to (2) ...

(3) In a case falling under sub-rule (2), the period of absence from duty including the period of suspension preceding dismissal, removal or compulsory retirement, as the case may be, shall be treated as a period spent on duty for all purposes.”

5. Upon perusal of Sub-rule (3) of Rule 70, it is apparent that the benefit of continuity in service is strictly limited to the period of suspension, as provided under Sub-clause (2) of Rule 70. In the instant case, since the orders of suspension and termination were co-terminus (i.e., issued on the same date), the operative provision of Sub-clause (3) does not apply. Consequently, any extension of

continuous service beyond the statutory framework is unwarranted, and the directive for reinstatement under Rule 70(2) remains intact and beyond reproach.

6. Notwithstanding the above, Clause (3) of the impugned order dated 9 October 2015 is hereby quashed and set aside.

7. In view of the foregoing discussion, the writ petition is hereby disposed of.

8. The petitioner shall remain entitled to institute appropriate proceedings for non-enforcement of the order passed by the revisional authority. It is contended that the reinstatement order should have been implemented forthwith, and accordingly, the petitioner is at liberty to seek suitable relief from the appropriate authority in respect of any differences or arrears payable, if any.

(AMIT BORKAR, J.)