

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2573 OF 2024

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| 1. The State of Maharashtra, |] | |
| Through Agriculture Department |] | |
| 2. The Commissioner (Agriculture), |] | |
| Commissionerate of Agriculture |] | |
| 3. The Divisional Joint Director of Agriculture, |] | |
| Commissioner Office, Nashik |] | .. Petitioners |
| <i>Versus</i> | | |
| Mr. Sachin Ramdas Sonawane, |] | |
| R/of Nava Mondha, Tal. Kej, Dist. Beed |] | |
| <i>(Terminated from the post of "Krushi Sevak")</i> |] | .. Respondent |

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CHAVAN

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Mrs. Reena A. Salunkhe, Assistant Government Pleader for the
Petitioners.

Mr. Gaurav Bandiwadekar, i/by Mr. Bhushan Bandiwadekar, Advocates
for the Respondent.

**CORAM : A.S.CHANDURKAR AND
M.M. SATHAYE, JJ.**

DATE : 14th JANUARY 2025

P.C. :

1. Rule. Rule made returnable forthwith. Taken up for final disposal by consent of learned Counsel for the Respondent, who waives service.

2. The Petitioner/State is challenging the Judgment and Order dated 16.06.2022 passed by the Member, Maharashtra Administrative Tribunal, Mumbai in OA No. 321 of 2018, by which the application filed by the Respondent is allowed, thereby quashing and setting aside the Termination Order dated 16.02.2017 and reinstating the Respondent in service. By the said impugned order, it is directed that the Respondent

will not be entitled to back wages from the date of termination till reinstatement on the principle of “No work No pay”. The Respondent-original Applicant has not challenged this order and as such, the petition is limited to the challenge raised by the State to the order of reinstatement.

3. Few facts necessary for disposal of this petition are as under. The Respondent was appointed on the post of ‘Agricultural Assistant’ on 12.06.2014 on fixed pay basis. The appointment was only for one year which was extended for second and third year as work of the Respondent was found satisfactory. The Respondent was to be considered for regular appointment on said post after successful completion of 3 years. Before completing 3 years, the Respondent was caught by Anti-Corruption Bureau for allegedly accepting bribe of Rs.500/- and a case was registered and he was arrested on 04.01.2017. It is informed that in the said case, chargesheet is filed and the matter is pending in Sessions Court at Nashik. Petitioner No.3 terminated the services of Respondent under Order dated 16.02.2017, w.e.f. date of arrest i.e. 04.01.2017. The Respondent challenged the termination by filing the appeal before Petitioner No.2/Commissioner, which was dismissed on 21.07.2017. Against this dismissal, the Respondent filed the aforesaid original application, which is allowed, under the impugned order, as explained above.

4. The learned Assistant Government Pleader appearing for the Petitioner/State contended that the Tribunal has not considered the fact that the Respondent was appointed purely on fixed pay basis temporarily and had no status of Government Servant so as to attract the provision of Maharashtra Civil Services (Discipline and Appeal)

Rules, 1979. She submitted that Respondent has breached the terms and conditions of the appointment order and therefore, he is not entitled to reinstatement. She has relied upon Rule 3, 3.9, 5(8)(c) of the Departmental Inquiry Manual, 4th Edition, 1991 of Government of Maharashtra (General Administrative Department) to contend that since the Respondent was on temporary appointment, whose continuation/extension was subject to satisfactory work, the termination in accordance with terms of appointment will not constitute punishment and departmental action, is not necessary.

5. On the other hand, learned Counsel for the Respondent has supported the impugned order, contending that all the relevant factors are considered by the Tribunal and the order of reinstatement is proper. He submitted that since the termination order dated 16.02.2017 refers to a trap and his arrest under Prevention of Corruption Act, 1988 and charges of bribery, the said termination amounts to stigma and therefore, the termination could not have been without holding an inquiry. He submitted that even if the Petitioner was a temporary employee, his services could not have been terminated without holding an inquiry. He relied upon the Judgment of the Hon'ble Supreme Court in the case of *Hari Ram Maurya v/s. Union Of India and Ors.* [(2006) 9 SCC 167] and order dated 10.05.2024 passed by the Division Bench of this Court in the matter of *State of Maharashtra and Ors. v/s Smt. Taramati Santosh Taji* in Writ Petition No. 904 of 2024 in support of his submissions.

6. We have considered the rival submissions and perused the impugned order. We note that the Tribunal, after considering various judgments of Hon'ble Supreme Court, has held that services of a

probationary cannot be terminated without following due process of law, where termination is stigmatic and punitive. The Tribunal has considered that though the Respondent was appointed for one year purely on temporary basis, he was continued from year to year and was in the third year of employment, when his services were terminated. The Tribunal has also considered that in clause 6 of the appointment order, it is specifically stated that if the Respondent completes three years period satisfactorily, then subject to availability of the post, his services can be regularised. On considering this position, the Tribunal has construed that Respondent's 3 years tenure as a probation.

7. Perusal of the appointment order dated 12.06.2014 indicates that the interpretation arrived at by the Tribunal is correct. It is indeed provided that the Respondent was appointed with a condition that if his work is found satisfactory, he will be given extension from year to year and on completion of 3 years of satisfactory work, his regularisation will be considered subject to availability of post. So also, perusal of Termination Order dated 16.02.2017 shows that there is a clear reference to charges of bribery as it is mentioned therein that the Respondent has been arrested for accepting bribe by Anti-Corruption Bureau by setting up a trap. This amounts to stigma and therefore, due process of law, ought to have been followed. This view is supported by the aforesaid Judgments relied upon by the Respondent.

8. In the light of aforesaid facts and circumstances, in our view, the impugned order does not suffer from any perversity or error apparent on the face of the record. The order of dismissal has been set aside on the ground that it was issued without complying with the principles of natural justice. The view taken is a probable view, which is

based on material available on record. Hence, we are not inclined to interfere in extraordinary writ jurisdiction.

9. While setting aside the order dated 16/02/2017 we find that the Tribunal directed reinstatement of the respondent by denying him backwages. It is however to be seen that the respondent is yet to complete the period of probation of three years as his services were terminated prior to completion of the period of probation. It would be necessary for the respondent to first complete the remaining period of probation after which the suitability of the Respondent could be adjudged on the basis of his overall performance. To that extent, the impugned order passed by the Tribunal requires interference. In that view of the matter, the following order is passed:

i) While maintaining the order passed by the Tribunal in Original Application No.321 of 2018 to the extent it sets aside the order of termination dated 16/02/2017 and denies the relief of back wages, it is directed that the reinstatement of the respondent would be in terms of his order of appointment, namely on probation for three years. On reinstatement, the respondent would be entitled to be put back on the post of Agricultural Assistant for the remaining period of probation. At the completion of the period of probation, it would be open for the petitioners to determine the suitability of the respondent in accordance with the terms and conditions of his appointment. Rule is disposed of in aforesaid terms with no order as to costs. Time of four weeks is granted to the petitioners to implement the order passed by the Tribunal.

(M.M. SATHAYE, J.)

(A.S.CHANDURKAR, J.)