



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

WRIT PETITION NO. 1809 OF 2025

Ramdas Jiwanaji Sanake

.. Petitioner

versus

The State of Maharashtra, through its Secretary,
Home Department, Mumbai and others.

.. Respondents

Mr. Vijay Kothale, Advocate for petitioner through Video Conferencing.
Mr. S. S. Hulke, Assistant Government Pleader for respondent nos. 1 to 4.

CORAM :- NITIN W. SAMBRE AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 2nd APRIL, 2025

P. C.

Heard Mr. Kothale, learned counsel appearing for the petitioner through Video Conferencing and Mr. Hulke, Assistant Government Pleader appearing for the respondents.

2. The prayer in the petition is as under:

(i) *Quash and set aside order passed in O. A. No.814/2021(SB) on 12.12.2022 (Annexure-P-4) by the Maharashtra Administrative Tribunal, Nagpur Bench, Nagpur, allowing thereby the prayer made in O. A. No. 814/2021 vide (Annexure-P-1) by way of interim relief order respondents to arrange to release provisional pension to petitioner, during pendency of petition.*

3. The facts necessary for deciding the petition are as under:

(i) On 03.06.1958 the petitioner got appointed as a 'Police Constable' and he was dismissed on 30.08.1966 after enquiry. The petitioner preferred an appeal before the Deputy Inspector General of Police and the said authority has dismissed the appeal on 29.03.1967.

(ii) The petitioner had a remedy of preferring the second appeal before the Director General of Police, which he claimed to have filed on 05.06.1967. It is his contention that the said appeal is not decided till this date as the record went missing from the Office of the Superintendent of Police/Police Department. Same has prompted the petitioner to approach before the Maharashtra Administrative Tribunal (hereinafter referred to as 'the Tribunal' for short) by filing Original Application (OA) No.814 of 2021, which was dismissed vide order dated 12.12.2022. As such, this petition.

4. Mr. Kothale, learned counsel for the petitioner, would urge that the dismissal of the OA is based on delay and laches. According to him, the respondent-State cannot act arbitrarily and must prove itself as a model employer thereby honouring the statutory remedy of deciding the appeal, which was pending with the respondent no.2 since 1967. According to him, the petitioner cannot be blamed for missing/destruction of the record by the respondents as the petitioner had no control over such documents. In such an eventuality, his contention is that for the default of the respondent authority, the petitioner should not suffer and that being so, the petition needs to be allowed thereby directing the respondents to decide the appeal or else, direct the respondents to pay the monetary benefits to the petitioner.

5. As against above, learned Assistant Government Pleader would support the impugned order and has tried to point out from the record that the petitioner has approached the Tribunal at a much belated stage for which there is no convincing explanation. As such, the dismissal of the petition is sought.

6. We have considered the rival claims.

7. It is not in dispute and borne out of the record that post appointment of the petitioner on 03.06.1958, his services were terminated and he was dismissed on 30.08.1966. Against the said order, the appeal preferred before the Deputy Inspector General of Police was dismissed on 29.03.1967. It is the case of the petitioner that he preferred a second appeal before the Director General of Police on 05.06.1967 and the said appeal is not decided till this date i.e. for almost 58 years.

8. We are required to be sensitive to the statutory provisions viz. Sections 20 and 21 of the Administrative Tribunals Act, 1985. Clause (b) of Section 21 reads thus :

21 Limitation – (1).....

(a)...

(b) in case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 has

been made and a period of six months had expired thereafter without such final order having been made within one year from the date of expiry of the said period of six months.”

9. The fact remains that in case if the appeal of the petitioner was not decided by the respondent-Director General of Police within a reasonable time, least that was expected of the petitioner was to approach before the Tribunal within the time prescribed.

Apart from above, we are also required to be sensitive to the fact that the Administrative Tribunals Act is enacted in 1985 and the appeal to the Director General of Police is claimed to have been pending since 1967. In such an eventuality, within a reasonable time of three years from the date of such appeal preferred before the Director General of Police, it was open for the petitioner to approach this Hon'ble Court seeking to get his appeal decided expeditiously. Rather, the petitioner had approached the Tribunal seeking the decision on the pending appeal by the Director General of Police after a lapse of more than 54 years. Such relief rightly so held by the Tribunal goes contrary to the scheme of Sections 20 and 21 of the Administrative Tribunals Act, 1985.

Besides, the record to be maintained by the respondents is governed by certain set of Rules and rightly so, it is brought to the notice of the respondent, so also to the petitioner that the record was maintained for a period of six and half years as per Rules and after that it was destroyed. That being so, in our opinion, the decision of the respondents of opposing the prayer of the petitioner, so also that of the Tribunal in dismissing the OA preferred by the petitioner cannot be faulted with.

10. No case in exercise of writ jurisdiction is made out. The petition fails and stands dismissed as such. No costs.

(MRS.VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)