



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.4148 OF 2019

Baliram Pandusingh Rathod,
aged about : 60 years,
Occupation : Retired
(Ex.P.S.I.Frezarpura Police Station
Amravati]
R/o Behind Bhakti Dham Mandir
Sainagar, Amravati

Petitioner

Versus

1.State of Maharashtra
through its Secretary,
Home Department,
Mantralaya, Mumbai – 400 032.

2.The Director General of Police
Maharashtra State, Mumbai.

3.The Commissioner of Police,
Amravati City, Amravati.
Tq.& Dist. Amravati.

Respondents

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Mr. V.A.Kothale, Advocate for petitioner.

Mr. S.S.Hulke, AGP for respondent nos.1 to 3.

CORAM : NITIN W. SAMBRE & MRS. VRUSHALI V. JOSHI, JJ.
DATE : MARCH 18, 2025.

ORAL JUDGMENT : (Per Nitin W.Sambre, J)

1. Heard.
2. Since Rule is already granted, the petition is taken for final hearing.
3. The petitioner has claimed the following reliefs:-

"[i] It be declared that order of punishment in terms of reversion from the post of Police Sub Inspector to Assistant Sub Inspector given vide Annexure-A-1 dtd.18.02.2013 suffixed to Annexure-P-I by respondent No.2 Director General Police Mumbai is unsustainable in the eye of law. Consequently, it be declared that, petitioner is entitled for getting promotion against the post of Assistant Police Inspector given vide Annexure A4 suffixed to Ann.P.I dated 26.05.2011 and consequently further promotional benefits to the post of Assistant Police Inspector and further promotion as Police Inspector along with benefits of deem date in view of retirement of petitioner with effect from 31.07.2017 from the post of Police Sub Inspector during the course of proceeding vide Annexure-P-I O.A.No.754/2015 before Maharashtra Administrative Tribunal, Nagpur Bench, Nagpur.

[ii] quash and set aside the order passed vide Annexure-P-IV in O.A.754/2015 vide judgment dated 05.03.2019 by Maharashtra Administrative Tribunal Nagpur Bench Nagpur and order of reversion dated

18.02.2013 referred as Annexure-A-1 suffixed to Annexure-P-I.;

[iii] Respondents be ordered to pass final pension by treating him as A.P.I. with effect from 26.05.2011 as per Annexure-A-4 suffixed to Annexure P-I and consequential promotion as Police Inspector by giving deem date by way of revision of pension w.e.f.31.07.2017 due to his retirement as on 31.07.2017 and be further ordered to release all arrears of salary due and retirement benefits including gratuity along-with interest by considering the status of petitioner as Assistant Police Inspector instead of Police Sub Inspector w.e.f. 26.05.2011 and further notional promotion as Police Inspector with benefit of deem dated from 26.05.2011;

[iv] By way of interim relief respondents be ordered to release gratuity with interest at the rate of 12% p.a. with effect from retirement date as 31.07.2017 during the pendency of the petition;

[v] Grant any other relief that deem suitable in the circumstances of the case, in the interest of justice”.

4. The petitioner while serving as a Police Sub Inspector, Walgaon Police Station in Amravati district arrested an accused in Crime No.103 of 2008 for offences punishable under Sections 454 and 380 of the Indian Penal Code. The said accused namely

Babarao @ Babtya Bobde arrested on 20th October, 2008 committed suicide in the police lock up, which led the petitioner being saddled with the punishment and the same was implemented vide order dated 31st October, 2015 passed by the Deputy Commissioner, Headquarter, Amravati City Police Commissionerate. The petitioner as a sequel of punishment order, was reverted for a limited period of two years on the post of Assistant Police Sub Inspector from the post of Police Sub Inspector.

5. It appears that the petitioner preferred an Original Application being O.A. NO.754/2015, which came to be dismissed on 5th March, 2019. As a sequel of which, the petitioner has preferred this petition.

6. The contentions of Mr. Kothale, learned counsel appearing for the petitioner are that the other similarly placed Assistant Police Sub Inspectors who were junior to the petitioner were already promoted vide order dated 26th May, 2011. According to him, the petitioner accordingly made a request to the respondents for grant of promotion, however, his request was turned down vide communication dated 7th August, 2013 as the petitioner was undergoing punishment imposed by the Disciplinary Authority vide order dated 18th February, 2013. According to him,

the petitioner already stood superannuated and in such an eventuality, the petitioner is entitled to monetary benefits qua he is entitled for promotion to the post of Assistant Police Sub Inspector to which the other juniors are promoted. According to Mr.Kothale, the petitioner from 1st January, 2015 has already suffered the punishment of demotion to the post of Assistant Police Sub Inspector. However, consequent thereto, the petitioner having suffered monetary loss was restored to the position of the Police Sub Inspector from which he stood superannuated. His claim for promotion in such an eventuality to the post of the Assistant Police Sub Inspector ought to have been considered.

7. As against above, the learned Assistant Government Pleader would urge that once the petitioner has suffered the punishment, whether he is entitled for the promotional post is an issue which can be looked into by the Competent Authority and not by this Court. According to him, at the relevant time i.e. 7th August, 2013 he was denied promotion as he was suffering the punishment. That being so, prayer for dismissal of the petition is sought.

8. We have considered the submissions.

9. It is not in dispute that the petitioner stood superannuated on 31st July, 2017 from the post of Police Sub

Inspector. He was denied promotion to the post of the Assistant Police Sub Inspector, as could be inferred from the order dated 7th August, 2013. However, it is his contention that juniors to him were promoted and he was denied promotion because of the order of punishment.

10. As a sequel of above, we are of the view that since the petitioner has already suffered the punishment of demotion on the post of Assistant Police Sub Inspector for a period of two years which was implemented vide order dated 31st October, 2015, his claim for promotion needs to be considered by the respondents.

11. That being so, we dispose of this petition by following order:

(i) We direct the respondents to consider the claim of the petitioner for promotion and benefits to the post of Assistant Police Sub Inspector and the post of Police Sub Inspector from which he stood superannuated after having suffered the punishment as was ordered on 31st October, 2015 of demotion to the post of Assistant Police Sub Inspector for a period of two years from 1st January, 2015.

(ii) The claim for promotion of the petitioner be decided and communicated to the petitioner within a period of four months from today.

(iii) The Assistant Government Pleader shall communicate this order to the respondents.

12. The petition, as such, stands partly allowed in the above terms. No costs.

(MRS.VRUSHALI V. JOSHI, J.) (NITIN W.SAMBRE, J.)