IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

82 WRIT PETITION NO. 11216 OF 2024

Surendra Trimbakrao Kadam
VERSUS
The State Of Maharashtra Through The Principal Secretary And Another
...
Mr. Pathan Sartaj Khan H., Advocate for the Petitioner
Ms. S. S. Joshi, AGP for Respondents/State
Mr. P. P. More, Advocate for Respondent No.2
...

CORAM : NITIN B. SURYAWANSHI &
ABASAHEB D. SHINDE, JJ.
DATE : 27th OCTOBER 2026

P. C. :-

1. By this petition, the petitioner has put forth the following substantive prayer :-

> *"(B) By issuing writ of mandamus of any other appropriate writ in the like nature, the Respondent No.2 may kindly be directed to consider the period of suspension as continuity of service and to release the salary of suspension period from 27.07.2012 to 31/10/2015 as per rules and release all regular pensionary benefits of the petitioner with retrospective effect and with admissible interest within a stipulated period."*

2. Admitted facts on record are that the petitioner, who was working as an Assistant Civil Engineer with Respondent No.2-Zilla Parishad, was suspended by order dated 4.08.2012 on account of registration of offences punishable under Sections 7, 12, 13 (1) (3) read with Section 13(2) of Prevention of

Corruption Act, 1988 Respondent No.2 issued a show cause notice to the petitioner and initiated a departmental enquiry. The said inquiry was completed on 22.05.2013, however, no decision was taken by disciplinary authority in the said departmental enquiry as the criminal prosecution was pending against the petitioner.

3. In the meanwhile, on 09.12.2015, the petitioner was reinstated in service. Subsequently, the Trial Court acquitted the petitioner vide judgment and order dated 17.01.2023. The Prosecution unsuccessfully challenged the said decision by filing appeal against acquittal before this Court. In these facts, the petitioner has approached this Court.

4. Heard learned Advocate for the petitioner, learned Advocate for Respondents and learned AGP for State. Perused the record.

5. Admittedly, the petitioner was suspended on account of registration of crime under Prevention of Corruption Act,1988 against him. Obviously, it was not at the instance of Respondent No.2 the said prosecution was lodged against the petitioner. Though the petitioner is acquitted by the Trial Court and the said acquittal is confirmed by this Court, that by itself, is not

sufficient to allow request of the petitioner to treat the suspension as duty period and pay salary and all the consequential benefits for the said period. However, the suspension period will have to be counted for the purpose of pensionary benefits.

6. In view of the settled legal position of the service jurisprudence, the petitioner cannot as of right claim that in view of his acquittal, suspension period should be treated as duty period.

7. Though the departmental enquiry against the petitioner was completed, due to pendency of prosecution, the disciplinary authority has not taken any decision. The disciplinary authority shall take final decision in the departmental enquiry including the decision in respect of suspension period. Respondent No.2 shall conduct this exercise within a period of 12 weeks from the date of receipt of copy of this order.

8. Writ Petition is disposed of in terms of above directions.

(ABASAHEB D. SHINDE, J.) (NITIN B. SURYAWANSHI, J.)

Narwade