

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 437 of 2024 (S.B.)**

Subhash S/o Tulsiram Waghode,
Age- 55 years, Occ.: Grade PSI,
R/o-Tayde Colony, Tal- Khamgaon,
Dist- Buldhana- 444303.

Applicant.

Versus

- 1) The Chief Secretary,
Home Department,
State of Maharashtra, Mantralaya, Mumbai -32.
- 2) The Director General of Police,
Shahid Bhagatsingh Marg, Colaba, Mumbai- 01.
- 3) The District Superintendent of Police,
Collector Office Road, Buldhana-443001.

Respondents.

Shri S.M. Khan, Advocate for the applicant.
Smt. S.R. Khobragade, learned P.O. for respondents.

Coram:- Hon'ble Shri Justice Vinay Joshi, Vice Chairman.

Dated:- 24/11/2025.

J U D G M E N T

Heard finally with the consent of both learned counsel.

2. The applicant has invoked the jurisdiction of the Tribunal in terms of Section 19 of the Administrative Tribunals Act, 1985 challenging the impugned order dated 05/07/2016 whereby the period of suspension is kept as it is.

3. It can be stated briefly that, the applicant has joined the Police Department on 14/08/1987 as a Police Constable at Buldhana. While

applicant was serving as a Head Constable attached to Police Station Borkhedia, District Buldhana, Crime No.3013/2011 was registered against him for the offence punishable under Sections 7,13 (1) (d) r/w 13 (2) of the Prevention of Corruption Act,1988. It was alleged that the applicant has raised demand of illegal gratification of sum of Rs. 500/- for issuance of attested copies of the documents. Owing to the registration of Crime, the applicant was placed under suspension vide order dated 05/03/2011. The department did not initiate departmental action. After filing of Chart Sheet, Special Case No. 04/2012 was registered in which the applicant was acquitted by Special Court vide its Judgement and order dated 05/11/2015. It was followed by reinstatement of the applicant vide order dated 17/12/2015, however, vide impugned order, the period of suspension from 05/03/2011 to 17/12/2015 has been kept as it is.

4. The applicant would submit that no departmental inquiry was initiated, merely on the basis of registration of Crime, he has been placed under suspension. Though the period of suspension runs more than 4 years, however, Department did not reviewed the applicant's case for continuation of suspension in terms of G.R. dated 14/10/2011. It is applicant's case that he was acquitted by Special Judge for want of evidence, hence it was honourable acquittal which entails to treat suspension period as spent on duty.

5. Per contra, the State resisted this application by contending that a Criminal case of moral turpitude was registered against the applicant. The Special Court has acquitted the applicant, by according benefit of doubt, hence the impugned action is well justified.

6. The most of the facts are not in dispute. While the applicant was attached to Borkedi Police Station, Crime No.62/2010 was registered for aforesaid offences, which led to issuance of suspension order. It is not in dispute that Department did not initiate domestic inquiry, but suspension was continued for the period more than 4 years without taking periodical review. It is also not in dispute that the applicant was acquitted after full-fledged trial.

7. The applicant's learned counsel relied on the decision of the Hon'ble Supreme Court in the case of ***Ajay Kumar Choudhary Vs. Union of India through its Secretary and Ano., (2015) 7 SCC 291*** to contend that "currency of suspension order should not extend beyond three months in absence of filing of charge sheet." The applicant relied on the decision of the Hon'ble Supreme Court in case of ***G.M. Tank Vs. State of Gujarat and Ors. (2006) 5 SCC, 446*** to contend that in case of acquittal in criminal trial, he is entitled for all benefits including setting aside departmental action. On the same line, he relied on the decision of Hon'ble Supreme Court in case of ***Ram Lal Vs. State of Rajasthan and Ors., 2024 (1) SLR 596***. More

particularly, applicant relied on the decision of Hon'ble Punjab and Haryana High Court in case of ***Avtar Singh Vs. State of Punjab and Ano.,2025 (1) SLR 500*** to contend that when the Criminal Court records a finding that there is no evidence to prove charges, notwithstanding observation as to acquittal by the benefit of doubt, it will be considered honourable acquittal and the employee shall be entitled to pay and allowances.

8. In absence of enquiry, the only material available is to see whether the suspension is wholly unjustified on the basis of the decision of criminal trial. The Judgment delivered by Special Court indicates that complainant has lodged the report alleging that the applicant has raised monetary demand of Rs.500/- for supply of attested copies of the documents. Though the complainant Mr. Gajanan Pawar was examined, however, he has not stated about the monetary demand. The Special Court noted that his evidence was totally contradictory. Moreover, the complainant was aggrieved against the applicant because the applicant insisted to pay the charges of Certified Copies and therefore he has lodged the report. The complainant has clearly denied that the accused has demanded bribe. The evidence of panch witness did not support the case of demand. The Special Court noted that the material electronic evidence was missing. Having regard to such peculiar facts, it was

observed that the prosecution has failed to prove the charges and thus resulted into acquittal. Though the Special Court used the term “benefit of doubt”, however, perusal of entire Judgment indicates that there was no evidence regarding demand and thus it is a case of honourable acquittal. True, all acquittals does not lead to treat suspension period as duty period. However, in above peculiar facts, particularly in absence of domestic inquiry and clear finding of trial court regarding absence of evidence, the suspension was wholly unjustified. In the circumstances, applicant succeeds, hence following order-

ORDER

(i) Application is allowed.

(ii) The impugned order dated 05/07/2016 is hereby quashed and set aside. The period of suspension from 05/03/2011 to 17/12/2015 shall be treated as a duty period for all purposes.

(iii) The applicant is entitled for all consequential benefits which shall be released within six months from the date of this order.

(Justice Vinay Joshi)
Vice Chairman.

Dated :- 24/11/2025.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 24/11/2025.

*