

(2017) 02 BOM CK 0214
In the Bombay High Court
Case No : 474 of 2016

Kum. Ujwala L. Parab

APPELLANT

Vs

The Sarpanch

RESPONDENT

Date of Decision : 13-02-2017

Acts Referred:

Citation : (2017) 02 BOM CK 0214

Hon'ble Judges : F M Reis, Nutan D Sardessai

Bench : DIVISON BENCH

Advocate : Rohan Pandurang Desai, Ashwin D Bhobe

Judgement

1. Heard Mr. R. Desai, learned counsel appearing for the petitioner and Mr. A. D. Bhobe, learned counsel appearing for the respondent no.1.
2. Rule. Heard forthwith with the consent of the learned counsel.
3. Mr. A. D. Bhobe, learned counsel waives service on behalf of the respondent no.1.
4. The above petition inter alia prays for a direction to the respondent no.1/ Village Panchayat to reinstate the petitioner as a Clerk in the establishment on payment of full back wages.
5. The learned counsel appearing for the petitioner pointed out that the petitioner was appointed as a L.D.C. in the establishment of the respondent no.1/ Village Panchayat on 3.05.1996. It is further pointed out that a memo was issued to the petitioner on 16.06.2004 claiming that the petitioner has committed a serious crime and as such subsequently, on 08.07.2004 the petitioner was placed under suspension as there was a disciplinary inquiry contemplated against the petitioner. The learned counsel further pointed out that thereafter on 16.11.2012, the petitioner was acquitted of all charges in Criminal Case No.58/S/2005. It is further submitted that the petitioner thereafter wrote to the respondent no.1 informing that she was acquitted of all the charges and sought

for reinstatement in the services of the respondent no.1. Despite of the reminder and the steps taken by the petitioner, as there was no other alternative, the petitioner filed the above writ petition inter alia praying that she be reinstated in the service.

6. Mr. Bhobe, learned counsel appearing for the respondent no.1 however submits that the petitioner was involved in a serious crime and as such mere acquittal in the criminal proceedings would not necessarily preclude the respondent no.1 from proceeding with the disciplinary inquiry. The learned counsel further pointed out that the respondent no.1 intends to proceed with the disciplinary inquiry and as such the question of granting any relief to the petitioner would not arise. The learned counsel further submits that in fact the respondent no.1 had offered the petitioner to join the services without any back wages as according to him there was no other promotional avenue to the petitioner even assuming that she was in service. The learned counsel as such points out that the petition be accordingly rejected.

7. We have considered the submissions of the learned counsel and we have also gone through the records. The undisputed facts in the present petition disclose that in fact the petitioner who was appointed way back in 1996 was placed under suspension in 2004. Though the petitioner was chargesheeted in the criminal case on account of alleged offences committed by the petitioner nevertheless, though the disciplinary inquiry was intended, it did not proceed nor lead to its logical conclusion. In the meanwhile, the records reveal that in 2012 the petitioner was given a clean acquittal in the criminal case filed against the petitioner. In such circumstances, considering that the disciplinary proceedings initiated against the petitioner did not proceed to its logical conclusion and taking note of the fact that the petitioner was given a clean acquittal in the criminal case filed against the petitioner, we find that the respondent no.1 was not justified to keep the petitioner under suspension for such a long period of time. Considering that it is not disputed that the petitioner did not have promotional avenue and taking note of the resolution dated 30.01.2017 passed by the respondent no.1 that the petitioner would be entitled to join services without claiming any back wages or any monetary benefit, we find that the petitioner is entitled to be reinstated in the services of the respondent no.1. The learned counsel appearing for the petitioner upon instructions of the petitioner who is present in Court states that the petitioner will not claim any back wages or monetary benefit for the period from the date of suspension until the date of reinstatement.

8. In such circumstances, considering the said statement of the learned counsel appearing for the petitioner upon instruction, we pass the following : O R D E R

(i) The respondent no.1 is directed to reinstate the petitioner from 01.03.2017 as a L.D.C. in accordance with law.

(ii) Needless to say, the claim of the petitioner for back wages and monetary

benefit stand dismissed as not pressed.

(iii) Rule is made absolute in the above terms.

(iv) The petition stands disposed of accordingly.