

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 513 OF 2019  
(Subject – Minor Punishment)**

**DISTRICT : NANDED**

**Yousufuddin Qamroddin,** )  
Age : 68 years, Occu. : Pensioner, )  
R/o. House No. 9-6-827, Near Water Tank, )  
Qusro Nagar, Degloor Naka, Nanded-431604.)

.... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through Secretary, (Awar Sachiv) )  
Revenue & Forest Department, )  
Mantralaya, Mumbai – 400 032. )
2. **The Collector,** )  
Nanded, District Nanded. )

**... RESPONDENTS**

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**APPEARANCE** : Smt. A.N. Ansari, Advocate for the Applicant.

: Smt. Sanjivani K. Deshmukh-Ghate,  
Presenting Officer for Respondents.

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**CORAM** : **SHRI V.D. DONGRE, MEMBER (J).**

**DATE** : **14.03.2022.**  
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**O R D E R**

1. By invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, the present Original Application is filed challenging the findings recorded by the

Enquiry Officer in the Enquiry Report dated 11.02.2014 (page Nos. 24 to 44 of the paper book) against the applicant and also challenging the impugned punishment order of the applicant dated 27.12.2016 (page Nos. 59 to 62 of the paper book) passed by the respondent No. 1 i.e. the State of Maharashtra, Revenue and Forest Department.

2. The facts in brief giving rise to this Original Application are as follows :-

(a) The applicant was working with the respondent as Peon/Shipai. His date of birth is 01.04.1949. He stood retired on superannuation on 31.03.2009. He rendered 38 years and 4 months' service sincerely and honestly.

(b) In the month of January, 2008, there was recruitment in the Collector Officer, Nanded for Class III and Class IV employees. It is alleged that the applicant by joining hands with the Resident Deputy Collector and other officers used his influence for getting employment to his son viz. Fazloddin Yousufuddin for the post of Clerk. On those allegations, in the year 2011, the applicant was served with the order dated 25.10.2011 (page Nos. 13 to 14 of the paper book) issued by the respondent No. 1 proposing

Departmental Enquiry against him. The applicant submitted his reply dated 14.12.2011 (page No. 22 of the paper book) to the said notice denying the allegations therein. By the order dated 06.12.2011 (page No. 21 of the paper book), Departmental Enquiry was proposed against in all 19 employees by the Collector Office, Nanded. The applicant was shown at Sr. No. 19 in the said order. In his reply dated 14.12.2011 (page No. 22 of the paper book), the applicant stated that he has no son by name Fazluddin Yousufuddin. His son named Arefuddin had filled in the form for the post of Peon. However, he was not called for written or oral tests. In view of the same, there was no question of getting employment for his son influencing the officers. However, despite his said reply, the memorandum dated 25.10.2011 (Page Nos. 15 to 16) was served upon the applicant. Memorandum along with statement of imputation was served upon the applicant calling upon to give written statement of defence. The applicant submitted his defence statement dated 14.12.20211 (page No. 22 of the paper book). Not being satisfied with the said reply, the competent authority decided to conduct the Departmental Enquiry by appointing V.B. Gujar, Deputy Commissioner

as the Enquiry Officer and Shri B.S. Ghuge, the then Residential Deputy Collector was appointed as Presenting Officer.

(c) During the said Departmental Enquiry, the witnesses were examined. The Enquiry Officer submitted his enquiry report dated 11.02.2014 (page Nos. 24 of the paper book), thereby it was held that the charges were proved against the applicant partially.

(d) The applicant received the said enquiry report vide memorandum dated 26.03.2014 (page No. 45 of the paper book) and explanation was sought. The applicant submitted his application dated 16.06.2014 (page No. 46 of the paper book) seeking time after obtaining requisite documents in that regard to show that Fazluddin Yousufuddin is not his son and that his son, who applied for the post of Peon was Arefuddin Yousufuddin.

(e) Thereafter, the applicant was served with the memo dated 07.04.2016 (page No. 47 of the page book), by which it was informed that the Government has taken decision of deducting 6% of total pension for two years from the pension of the applicant and sought reply. On receipt of the

same, the applicant submitted his detailed reply dated 02.05.2016 (page No. 49 of the paper book) reiterating his defence mentioning documents relied upon by him earlier. However, order of punishment dated 03.09.2016 (page Nos. 52 to 55 of the paper book) came to be passed imposing punishment of deducting 6% of total pension for two years.

(f) After passing of the said order dated 03.09.2016 (page Nos. 52 to 55 of the paper book) issued by the respondent No. 1, the respondent No. 2 i.e. the Collector, Nanded wrote a letter dated 09.09.2016 (page Nos. 56 to 57 of the paper book) to the respondent No. 1 pointing out that charges against the applicant cannot be held to be proved. The applicant also made detailed representation dated 21.09.2016 (page No. 58 of the paper book) to the respondent No. 1. Thereafter, impugned final order dated 27.12.2016 (page Nos. 59 to 62 of the paper book) came to be passed, whereby 6% pension amount of the applicant was to be deducted for the period of two years.

(g) The applicant earlier filed O.A. No. 198/2017 challenging the findings of Departmental Enquiry report dated 11.02.2014 and impugned final punishment order

dated 27.12.2016 (page Nos. 59 to 62 of the paper book) imposed upon the applicant by the respondent No. 1. By the order dated 26.09.2017 (page Nos. 74 to 76 of the paper book), permission was granted to the applicant to withdraw the said O.A. with liberty to file departmental appeal. The applicant thereafter, filed departmental appeal against those orders, which is at page Nos. 77 to 86 of the paper book. However, till today nothing is heard in the said matter and no decision is given by the respondent No. 1. In view of the same, the applicant has been constrained to file the present Original Application pursuant to liberty granted to him by this Tribunal.

(h) The said order is challenged in this Original Application together with the findings in the Departmental Enquiry report dated 11.02.2014 (page Nos. 24 to 44 of the paper book) on the ground that the Departmental Enquiry is devoid of any merits. The charges levelled against the applicant that he said to have used his influence for getting appointment, allegedly for his son viz. Fazluddin Yousufuddin is not believable in as much as the applicant is working in lower cadre of Class-IV employee in ladder

and it cannot be said that he can use his official influence with the higher officers.

(i) It is further contended that the applicant in his various replies has stated that he has three sons viz. Asefuddin, Yousufuddin and Arefuddin and none of his son is Fazloodin. In fact, the Enquiry Officer held that there is no evidence or material to prove the charge against the applicant. However by placing reliance on the documents produced by the candidate Fazloodin, in which name of Fazloodin's father was shown as 'Yousufuddin', giving findings of partially proved is nothing but mockery. The Enquiry Officer failed to consider the documents produced by the applicant establishing innocence. Even the District Collector, Nanded i.e. the respondent No. 2 communicated to the respondent No. 1 that the charge was not proved against the applicant. Hence, the present Original Application.

3. The affidavit in reply is filed on behalf of respondent Nos. 1 and 2 by one Shri Prasad S/o Prabhakar Rao Kulkarni, working as Tahsildar (General) Collector Office, Nanded, Dist. Nanded, thereby he denied all the adverse contentions raised in the

present Original Application. It is specifically stated that the Departmental Enquiry was conducted against the applicant in accordance with law. The opportunities were given to the applicant to file his statement of defence. The witnesses were examined. The selected candidate in this case viz. Fazloddin has given name of his father as Yousuffuddin, which is name of the applicant. In view of the same, the Enquiry Officer rightly gave findings that the charge was proved partially against the applicant. Hence, there is no illegality in the findings of the Enquiry Officer in his Enquiry Report dated 11.02.2014. The impugned final punishment order dated 27.12.2016 is issued by the respondent No. 1 by giving opportunity of hearing to the applicant in accordance with law and therefore, the present O.A. is liable to be dismissed.

4. I have heard arguments advanced by Smt. A.N. Ansari, learned Advocate for the applicant on one hand and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondents on the other hand. I have also perused all the documents annexed with the Original Application.

5. The Departmental Enquiry proceeded against the applicant alleging that the applicant influenced and/or joined hands with

the higher authority for getting employment to his son viz. Fazloddin. The applicant in his defence statement categorically denied that he has any son viz. Fazloddin. To substantiate the same, the applicant in the Departmental Enquiry admittedly produced on record his family ration card and the requisite information given by him at the time of getting pension. Those documents would show that the applicant has 3 sons viz. Asefuddin, Yousufuddin and Arefuddin and daughter's name is Nasrine Begum. The said record does not show that the applicant has son Fazloddin. In the impugned enquiry report dated 11.02.2014 (page Nos. 24 of 44 of the paper book), the name of the applicant is shown at Sr. No. 19 and as regards finding on charge, it is observed that the Government has not produced sufficient evidence to show that Fazloddin, who appeared for the examination is the son of the applicant, but only because Fazloddin mentioned name of his father as Yousufuddin, he came to the conclusion that the charge is partly proved.

6. Record would show that the applicant gave concrete evidence in the Departmental Enquiry that he has no son by name Fazloddin. Only because the said Fazloddin, who appeared for the examination gave name of his father as Yousufuddin, which is also incidentally the name of the applicant, it does not

become conclusive proof that the applicant is only the father of said candidate viz. Fazloodin. Findings are given observing that the application made by the Fazloodin mentioned his father's name as Yousufuddin. That cannot be sufficient piece of evidence. There can be persons more than one having identical names. In these circumstances, in my considered opinion, the findings in the Enquiry Report against the applicant are perverse and not at all sustainable.

7. Record would further show that after submission of Enquiry Report, in the communication dated 09.09.2016 (page Nos. 56 to 57 of the paper book) addressed by the Collector, Nanded to the respondent No. 1, it was pointed out that there is no evidence on record to show that the candidate Fazloodin is the son of Yousufuddin. The same was also not considered while passing the impugned order dated 27.12.2016 (page Nos. 59 to 62 of the paper book) by the respondent No. 1. The applicant in his repeated representations pointed out those facts to the respondent No. 1 before passing the final order of punishment. However, the respondent No. 1 failed to take into consideration the said representations by applying judicious mind. In view of the same, the final order of punishment is also not sustainable in the eyes of law. Therefore, both the orders viz. findings of the

Enquiry Officer in the D.E. dated 11.02.2014 (page Nos. 24 to 44 of the paper book) and final punishment order dated 27.12.2016 (page Nos. 59 to 62 of the paper book), which orders are challenged herein are liable to be quashed and set aside. Hence, I proceed to pass following order :-

**ORDER**

1. The Original Application is allowed.
2. The impugned order of findings of the Enquiry Officer in the D.E. dated 11.02.2014 (page Nos. 24 to 44 of the paper book) against the applicant and the impugned final punishment order of the applicant dated 27.12.2016 (page Nos. 59 to 62 of the paper book) are hereby quashed and set aside.
3. There shall be no order as to costs.

**PLACE : AURANGABAD.**  
**DATE : 14.03.2022.**

**(V.D. DONGRE)**  
**MEMBER (J)**