

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO 1010 OF 2017**

**DISTRICT : SANGLI**

Shri Dattatraya Nivrutti Salunkhe )  
Age-61 years, R/o: Post Devrashtre, )  
Tal-Kadegaon, Dist-Sangli. )...**Applicant**

**Versus**

1. Chief Secretary, )  
State of Maharashtra, )  
Mantralaya, Mumbai 400 032.)
2. The Principal Secretary, )  
Revenue & Forest Department,) )  
Mantralaya, Mumbai 400 032.)
3. The Divisional Commissioner, )  
Pune Division, Council Hall, )  
Camp, Opposite Poona Club, )  
Camp, Pune 411 001. )
4. The Collector, )  
Sangli Collector Officer, )  
Khanbhag, Sangli 416 416. )...**Respondents**

Smt Punam Mahajan, learned advocate for the Applicant.

Shri A.J Chougule, learned Presenting Officer for the Respondents.

**CORAM : Justice Mridula Bhatkar (Chairperson)  
Mrs Medha Gadgil (Member) (A)**

**DATE : 10.01.2024**

## **J U D G M E N T**

1. The applicant prays that the Hon'ble Tribunal be pleased to quash and set aside the punishment order dated 9.3.2017 and direct the Respondents to release all the pensionary benefits with interest. The applicant further prays that this Tribunal be pleased to direct the Respondents to release all the pensionary benefits including gratuity.

2. Learned counsel for the applicant submits that order of the Disciplinary Authority dated 15.1.2015 was challenged earlier before this Tribunal in O.A 982/2015. By order dated 27.1.2017, the Tribunal remanded the matter back to the Disciplinary Authority from the stage of the receipt of the report of Enquiry Officer and if the Disciplinary Authority disagree with the findings of the Enquiry Officer, he should act in accordance with the law laid down by the Hon'ble Supreme Court in **YOGINATH BAGDE Vs. STATE OF MAHARASHTRA & ANR, 1999 SCC (L & S) 1385**.

3. Learned counsel for the applicant relies on Annexure A-13, i.e., order dated 2.3.2017, whereby notice is issued by the Collector, Sangli, to the applicant. Learned counsel pointed out that in the said notice nothing is mentioned especially the reasons of disagreement with the findings of the Enquiry Officer which is the requirement as per the ratio laid down in the case of **YOGINATH BAGDE's** case. Learned counsel has further submitted that thereafter by order dated 9.3.2017, the Disciplinary Authority, i.e., the Collector, revised the punishment from 50% reduction in pension for a period of 5 years to 20% reduction in pension permanently. The said order dated 9.3.2017 is the subject matter of challenge in the present Original Application.

4. Learned P.O relies on the affidavit in reply dated 28.11.2019 of Shri Ganesh S. Markad, Sub-Divisional Officer, Kadegaon, Sangli, on behalf of Respondent No. 4, to the amended Original Application, which was carried out on 1.3.2018. Learned P.O submits that show cause notice was issued to the applicant and after the applicant gave his reply, he was given audience and thereafter the Disciplinary Authority passed the order dated 9.3.2017, by reduction of 20% pension permanently.

5. The only issue before us is whether the show cause notice dated 2.3.2017, discloses that if the Disciplinary Authority has disagreed with the findings of the Enquiry Officer, the Disciplinary Authority has to give reasons on the basis of which the Disciplinary Authority has proposed to disagree with the findings of the Enquiry Officer should be mentioned. After going through it, we did not come across any reason given in the show cause notice by the Disciplinary Authority for disagreeing with the findings of the Enquiry Officer. The notice dated 2.3.2017 was issued pursuant to the order of this Tribunal dated 27.1.2017 in O.A 982/2015. In the said Original Application the same mistake was committed and the matter was remanded back to the Disciplinary Authority only on the short point that no reasons for the proposed disagreement by the Disciplinary Authority with the findings of the Enquiry Officer was disclosed. After going through the impugned order dated 9.3.2017, it appears that the Collector did not consider the order of this Tribunal dated 27.1.2017 in O.A 982/2015 and repeatedly committed the same mistake. Further, pursuant to the law laid down by the Hon'ble Supreme Court in the case of YOGINATH BAGDE, supra, the State of Maharashtra has amended Rule 9(2) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 on 10.6.2010. Therefore, it was obligatory on the part of the Disciplinary Authority, if at all he is in disagreement with

the findings recorded by the Enquiry Officer, to mention the reasons of proposed disagreement in the show cause notice before hearing the delinquent officer.

6. In view of the above, following order is passed:-

- (a) Original Application is allowed.
- (b) The impugned order dated 9.3.2017 is quashed and set aside.
- (c) The Respondents are directed to pay all the pensionary benefits including gratuity to the applicant along with interest.
- (d) The said order should be complied with within three months from the date of this order.

**Sd/-**  
**(Medha Gadgil)**  
**Member (A)**

**Sd/-**  
**(Mridula Bhatkar, J.)**  
**Chairperson**

**Place : Mumbai**  
**Date : 10.01.2024**  
**Dictation taken by : A.K. Nair.**