

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1145 of 2021 (S.B.)

Rahul Bhauji Dongre,
Aged 37 Yrs., Occ. Service,
R/o Dr. Ambedkar Chowk, Ward No.4,
Ashti, Tah. Chamorshi, Distt. Gadchiroli.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Revenue, M.S. Mantralaya, Mumbai.
- 2) Divisional Commissioner, Nagpur.
- 3) Collector, Gadchiroli.

Respondents.

S/Shri N.R. Saboo, A.P. Barhate, Advs. for the applicant.
Shri V.A. Kulkarni, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 03/04/2024.

J U D G M E N T

Heard Shri N.R. Saboo, learned counsel for the applicant
and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant was appointed as a Clerk-cum-Typist in the
office of Tahsil, Chamorshi. The respondents without holding any
preliminary enquiry, the applicant was served with memorandum of

charge dated 21/12/2017. In the departmental enquiry, charge nos.1,2 and 5 were not proved. Charge nos.4 and 5 were held to be proved. The respondent no.3, the Collector, Gadchiroli vide order dated 29/07/2019 awarded punishment of withholding one increment permanently. The applicant filed appeal before the Divisional Commissioner, Nagpur on 17/20-09-2019. The said appeal is still pending. Hence, the applicant approached to this Tribunal for direction to the Divisional Commissioner, Nagpur, i.e., respondent no.2 to decide the appeal within a stipulated time and also prayed to quash and set aside the order passed by respondent no.3.

3. The O.A. is strongly opposed by respondent no.3 It is submitted that the charges are proved against the applicant. Appeal is pending before the Divisional Commissioner, Nagpur. Hence, the O.A. is liable to be dismissed.

4. The learned counsel for applicant Shri N.R. Saboo fairly submits that the appeal is pending before the Divisional Commissioner, Nagpur. Therefore, respondent no.2 be directed to decide the appeal within time.

5. Heard learned P.O. Shri V.A. Kulkarni. As per his submission, the O.A. itself is not maintainable because the remedy is not exhausted by the applicant. Hence, the O.A. is liable to be dismissed.

6. There is no dispute that the department enquiry was initiated. Respondent no.3 passed the order dated 29/07/2019 by which one increment is permanently stopped. The applicant has filed appeal before respondent no.2 on 17/09/2019. The said appeal is pending before the Divisional Commissioner, Nagpur. Hence, the following order –

ORDER

- (i) The O.A. is partly allowed.
- (ii) Respondent no.2, i.e., the Divisional Commissioner, Nagpur is directed to decide the appeal filed by the applicant within a period of three months from the date of receipt of this order.
- (iii) No order as to costs.

Dated :- 03/04/2024.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 03/04/2024.