

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 124 of 2019 (S.B.)**

Ilyas Khan Rashid Khan,
aged about 62 years, Occupation: Retired (Tahsildar),
R/o Navrang Society, Pandharkawada Road,
Yavatmal, Tah. & Dist. Yavatmal.

Applicant.

Versus

1) The State of Maharashtra,
through it's Additional Secretary,
Ministry of Revenue & Forest Department,
Mantralaya, Mumbai-32.

2) The Divisional Commissioner,
Amravati Division, Amravati, Tah. & Dist. Amravati.

Respondents.

S/Shri S.N. Gaikwad, K.D. Manwatkar, Advs. for the applicant.

Shri A.M. Khadatkhar, learned P.O. for respondents.

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

Dated :- 05/04/2024.

J U D G M E N T

Heard Shri S.N. Gaikwad, learned counsel for the applicant and Shri A.M. Khadatkhar, learned P.O. for the respondents.

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

The applicant was holding the post of Naib Tahsildar at Daryapur, District Amravati. Respondent no.2 had issued the suspension order because of the criminal prosecution pending

against him. Respondent no.2 issued the charge sheet on 25/03/2010 against the applicant. Two charges were levelled against the applicant, one charge is for the offence punishable under Sections 384,306 r/w 34 of the IPC and another is for that applicant has not fulfilled the target of section of Rashion and Kerosin license holder and therefore the allegation of negligence was levelled against him.

3. Respondent no.2 has revoked the suspension of applicant by an order dated 02/02/2011 and reinstated him as a Naib Tahsildar at Yavatmal. After completion of enquiry, the Enquiry Officer has submitted the enquiry report on 19/01/2017, wherein he has specifically stated that charge no.1 is not proved and so far as the charge no.2 is concerned that is partially proved against the applicant. It is submitted that the respondents have treated the suspension period without duty period and therefore prayed to quash and set aside the impugned order and direct the respondents to treat the suspension period as a duty period and pay all the consequential benefits.

4. The O.A. is strongly opposed by the respondents. It is submitted that the Criminal case was pending against the applicant. Nothing is on record to show that there was clear acquittal. The applicant was not residing at the head quarter and therefore other

charge was proved against the applicant. Hence, the O.A. is liable to be dismissed.

5. Heard Shri S.N. Gaikwad, learned counsel for the applicant. He has pointed out Rule 72 (5) of the Maharashtra Civil Services (Joining time, Foreign Service and Payments During Suspension, Dismissal and Removal) Rules, 1981 (in short "Rules of 1981") and submitted that without any notice respondents cannot treat the suspension period as such. He has pointed out the Judgment of this Tribunal in O.A.No.912/2022 and submits that the impugned order is liable to be quashed and set aside.

6. Heard Shri P.O. Shri A.M. Khadatkhar. As per his submission, the Judgment of Criminal case is not filed on record. Therefore, it cannot be said that it was clear acquittal. The applicant was suspended because of the Criminal case for the offence punishable under Sections 384,306 r/w 34 of the IPC was registered against him.

7. During the course submission the learned counsel for applicant submits that in the enquiry it was held that the applicant was acquitted in the criminal case and therefore that charge was not proved against him.

8. But from perusal of the order passed by respondent no.1 dated 11/01/2019 it is clear that the applicant was not doing his duty

properly, he was not residing at the head quarters and therefore he was given warning.

9. In the enquiry, it was proved that the applicant was not residing at the head quarters, he was not discharging his duty properly and therefore respondent no.1 has taken decision of warning to the applicant. Applicant was reinstated, but suspension period is treated as a suspension period. As per the Rule 72 of the Rules of 1981, it is for the respondent authority to decide the suspension period. The suspension period can be treated as a duty period, if the Authority comes to the conclusion that suspension was wholly unreasonable. In this case, it appears that the applicant was not only facing criminal case, but also he was not discharging his duty properly, he was not residing at the head quarters. Therefore, the respondents had given warning to him and on that ground his suspension period is decided as such. The cited decision in O.A. No. 912/2022 is on different footing. Hence, it is not applicable to the case in hand. Therefore, the following order is passed –

ORDER

The O.A. is dismissed with no order as to costs.

Dated :- 05/04/2024.

(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 : 05/04/2024.