

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1014 of 2019 (S.B.)

Vivek S/o Arunrao Khandre,
Aged about 44 years, Occ. Talathi,
R/o near Raj Lawn Wadgaon,
District Chandrapur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Ministry of Revenue and Forest,
Mantralaya, Mumbai-400 032.
- 2) Collector, Chandrapur
District Chandrapur.
- 3) Sub Divisional Officer, Gondpimpri,
Tahsil Gondpimpri, District Chandrapur.

Respondents.

Shri N.S. Warulkar, Advocate for the applicant.

Shri V.A. Kulkarni, P.O. for the respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated :- 23/12/2021.

JUDGMENT

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

2. The applicant has challenged the impugned orders dated 28/2/2018 and 3/4/2019. The case of the applicant in short is as under -

3. The applicant is working as a Talathi with respondent no.3 at Tahsil Gondpipri. The respondent no.3 issued a show cause notice whereby levelled allegations that while the applicant was working as a Talathi saza Dhanapur, Tahsil Gondpipri, the applicant has not completed 100% work of correction of 7/12 extract of "Edit Modul" and further the applicant failed to provide that corrected 7/12 extract for removing any defects. The applicant submitted detailed explanation to the aforesaid show cause notice on 3/6/2017 and categorically denied the allegations. But instead of considering his detailed explanation, the respondent no.3 passed impugned order dated 28/2/2018 withholding two increments permanently. Being aggrieved by the said impugned order, the applicant has filed appeal before the Collector (R/2) . The said appeal came to be dismissed.

4. The application is strongly opposed by respondent no.3. It is submitted that withholding two increments permanently is a minor punishment and therefore there was no necessity of departmental enquiry. It is submitted that preliminary enquiry was conducted. Looking to the misconduct two increments were stopped permanently.

5. Heard learned counsel for the applicant. As per his submission, stopping of increments permanently amounts to major punishment. Hence, without any departmental enquiry it cannot be stopped permanently.

6. Heard learned P.O. for the respondents. He has submitted that preliminary enquiry was conducted and looking to the nature of misconduct, minor punishment of stopping of two increments were awarded. There was no any need for departmental enquiry. Hence, the O.A. is liable to be dismissed.

7. The learned counsel for the applicant pointed out the decision of Hon'ble Bombay High Court in case of **Narendra Motiram Bodkhe Vs. Additional Commissioner & Ors., 2006 (5) Bom. C.R. 48**. The Hon'ble Bombay High Court relying on the Judgment of Hon'ble Supreme Court held that stopping of increment permanently, amounts to major punishment. Therefore, without any departmental enquiry major punishment of stopping of increment cannot be awarded. This Tribunal also recorded the same view in O.A. 633/2016 and recently in O.A.Nos. 903/2018, 904/2018 & 06/2019. In view of the Judgment of Hon'ble Bombay High Court in case of **Narendra Motiram Bodkhe Vs. Additional Commissioner & Ors.**, it is clear that stopping of increment permanently amounts to major punishment. Without any departmental enquiry, major punishment

cannot be awarded. In that view of the matter, the following order is passed –

ORDER

- (i) The O.A. is allowed.
- (ii) The impugned order dated 28/2/2018 passed by respondent no.3 and impugned order dated 3/4/2019 passed by respondent no.2 are hereby quashed and set aside.
- (iii) The respondents are directed to release the increments as per the rules.
- (iv) No order as to costs.

Dated :- 23/12/2021.

(Justice M.G. Giratkar)
Member (J).

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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 Member (J).

Judgment signed on : 23/12/2021.

Uploaded on : 24/12/2021.