

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 109 of 2015**

Shri Murlidhar S/o Gulabrao Pawar,  
Aged about 67 years,  
Occ. Retired, R/o New Friends Society,  
VNV Road, Amravati, Dist. Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Principal Secretary,  
Rural Development and Water Conservation  
Department, Mantralaya, Mumbai-32.
- 2) The Divisional Commissioner,  
Amravati Division, Amravati cum Chairman,  
Project Director, District Rural Development  
Authority, Amravati.
- 3) Chief Executive Officer,  
Zilla Parishad, Amravati.
- 4) Block Development Officer,  
Panchayat Samiti, Bhatkuli,  
Dist. Amravati.

**Respondents**

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**S/Shri S.Y, C.U. Deopujari, Mrs. Swati Potey, Advs. for the applicant.**

**Shri H.K. Pande, Id. P.O. for the respondent nos.1&2.**

**Shri P.A. Kadu, Id. Advocate for respondent nos. 3&4.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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## **JUDGEMENT**

**(Delivered on this 10<sup>th</sup> day of October,2017)**

Heard Shri C.U. Deopujari, learned counsel for the applicant, Shri H.K. Pande, Id. P.O. for respondent nos. 1&2 and none for R-3&4.

2. The applicant is claiming a declaration that the action of respondents to withhold an amount of Rs.3,14,000/- deposited by the applicant with respondent no.4 on 15/5/2001 and 01/06/2001 is illegal and that the applicant is entitled to said amount with interest. He is also claiming direction to respondents to refund the said amount forthwith with interest.

3. It seems that the applicant was initially appointed as Agriculture Officer in Chiplun, Dist. Ratnagiri on 1/2/1972 and was transferred to the post of Project Officer on ICDE at Dharni in 1980. In 1991 he was transferred on the post of Block Development Officer. According to the applicant on the charges of not completing the work of construction of latrine and small houses under Indira Awas Yojna, the Chief Executive Officer, Zilla Parishad, Amravati and Vice President, Zilla Parishad, Amravati sent the applicant on compulsory leave, without any authority. Under the threat of dire action the

applicant was forced to despite Rs.3,14,000/- on the allegations that he has misappropriated said amount.

4. The applicant accordingly deposited Rs.1,14,000/- on 15/5/2001 and Rs.2,00,000/- on 1/6/2001 with respondent no.4 i.e. Panchayat Samiti,Bhatkuli under threat and pressure.

5. On 5/7/2003 charge sheet was issued against the applicant in the departmental enquiry. Said inquiry was continued for 10 years and the applicant was forced to file O.A. 632/2012 before the Hon'ble Maharashtra Administrative Tribunal, Nagpur and because of such action on the part of applicant the inquiry was completed vide report dated 14/6/2013. The applicant was exonerated from all charges.

6. In the O.A. filed by the applicant the Tribunal directed on 7/4/2014 to conclude all pending departmental proceedings against the applicant and to pass final order within three weeks from the date of order. However on 25/6/2014 a final order in the inquiry was passed and punishment was imposed upon the applicant of reduction of 6% of his pension for a period of one year and there was no direction to retain / confiscate the amount of Rs.3,14,000/- deposited by the applicant. The applicant made number of representations for refund of the amount, but for no use and therefore this O.A.

7. The respondent nos. 3&4 have filed reply-affidavit and alleged that the State Government under Indira Awas Yojna was to construct small houses at village Jalka Hirapur under Panchayat Samiti, Bhatkuli. The applicant while implementing said scheme granted illegal sanction for disbursement of amount of Rs.12,35,842/- under various heads. The said amount was disbursed without any rule and excess amount of Rs.3,25,646/- was also disbursed. A show cause notice was therefore issued to the applicant on 29/7/1999. The applicant accepted notices and deposited the amount. The applicant also accepted misappropriation and therefore deposited the amount.

8. The applicant filed additional affidavit and denied the charge that he deposited the amount by accepting misappropriation. It is stated that the said amount has been illegally recovered from the applicant.

9. The applicant has placed on record the copy of the order passed in departmental enquiry against him. The said copy of the order dated 25/6/2014 is at Annex-A-9 at P.B. page nos. 48 to 50 (both inclusive). It seems that the applicant was charged for misappropriation of the amount, but the Inquiry Officer came to the conclusion that none of the 8 charges framed against the applicant were proved. The competent authority however did not agree with this findings and a show cause notice was issued to the applicant along

with the reasons for non agreement with the findings of the Inquiry Officer. Unfortunately it is not known whether the applicant has challenged the order dated 25/6/2014 whereby 6% amount from his pensionary benefits have been reduced for a period of one year. It is material to note that even for argument sake it is accepted that the applicant has not filed any appeal against the order dated 25/6/2014 making deduction of his pension, the said order nowhere states as to how the applicant was liable to pay the amount which he was required to deposit. The entire order nowhere shows that the applicant really misappropriated any amount or that he has caused financial loss to the Government and there is even no whisper on the part of competent authority to forfeit that amount. In such circumstances merely on the basis of order dated 25/6/2014 in the departmental inquiry, the respondents cannot be allowed to retain the amount of Rs.3,14,000/- which they recovered from the applicant without any legal basis. Considering all these aspects the respondent authorities have no authority to retain the amount which has been recovered from the applicant. There is nothing on the record to show that the applicant has caused financial loss to the Government to the tune of Rs.3,14,000/- or that he has really misappropriated that amount. Considering all these aspects, I am satisfied that the said amount

must have been deposited by the applicant either under threat or pressure from the superior authority. Hence, I pass following order :-

**ORDER**

The O.A. is allowed in terms of relief clause (a) (b) & (c). The respondents are directed to refund the amount of Rs.3,14,000/- to the applicant within three months from the date of this order, failing which the applicant may claim interest as admissible under the provisions of Maharashtra Civil Services (Pension) Rules by making a representation to that effect and in that case the respondents will have to pay interest from 15/5/2001 and 1/6/2001 when the amount said was deposited in two instalments till the date on which the amount will be paid actually. No order as to costs.

**(J.D. Kulkarni)**  
**Vice-Chairman (J).**

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