

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.214/2011.

Kisan Gangaram Bhatia,,
Aged about 57 years,
Occ- Service,
R/o Bramhapuri.
Distt. Chandrapur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Food & Civil Supplies,
Mantralaya, Mumbai-32.
2. The Collector,
Chandrapur.
3. District Supply Officer,
Chandrapur.
4. The Tehsildar,
Bramhapuri, Dist. Chandrapur.
5. The Divisional Commissioner,
Nagpur Division, Nagpur.

Respondents.

Shri P.S. Tembhare, Ld. Advocate for the applicant.

Shri A.M. Ghogre, Ld. P.O. for the respondents.

Coram:- The Hon'ble Shri Justice A.P.Deshpande,
Vice-Chairman.

Dated:- 8th January, 2013.

Oral Order

Heard Shri P.S. Tembhare, the learned counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondent.

2. The applicant, by filing the present O.A. is challenging the order of recovery of an amount of Rs. 7,92,975/-. At the relevant point of time, the applicant was Incharge of godown wherein foodgrains were stored. When the godown stock was checked with reference to the stock register of the said godown, it was noticed by the respondents that there was shortage of stock of foodgrains and the shortfall was estimated to be valued at Rs. 7,92,975/-. After noticing the same, a show cause notice was served on the applicant, disclosing the shortage of foodgrains in detail, noticed at the time of inspection and prima facie holding the applicant responsible for the shortage. The applicant was called upon to explain as to why he should not be proceeded against for

misappropriation of the foodgrains. The applicant replied the show cause notice and categorically admitted that he is responsible for the loss caused to the State Government in the sum of Rs. 7,92,975/-. The admission of misconduct, termed as 'negligence' by the applicant is in following words:-

“सविनय विनंती याप्रमाणे आहे कि, मी के. जि. भाटिया, शासकिय धान्य गोदाम, नागभीड येथे दिनांक १८/०६/२००७ ते ३१/०३/२००९ या कालावधीत गोदाम रक्षक म्हणून कार्यरत असतांना, तांदुळ ६७८.५० क्विंटल व गहू २६२ क्विंटल धान्याची अफरातफर झालेली आहे. त्यामुळे शासनाचे रुपये ७,९२,९७५/- चे नुकसान झाले आहे. सदर नुकसान माझे निष्काळजी व दुर्लक्षणांमुळे झालेले असल्यामुळे ते मला पुर्णपणे मान्य आहे व त्यास मी जबाबदार आहे.

सदर अफरातफर माझ्या कालावधीत झालेली असल्यामुळे व ती मला मान्य असल्यामुळे त्याची जबाबदारी मी स्विकारीत आहे. आणि त्याची पुर्ण रक्कम रुपये ७,९२,९७५/- भरून देण्याची मी स्वतः जबाबदारी स्विकारतो. आणि मी रक्कम भरण्यास तयार आहे. सदर रक्कम जास्त असल्यामुळे त्याची व्यवस्था करण्याकरिता कृपया मला १ (एक) महिण्याचा कालावधी द्यावा, हि विनंती.”

In the said reply, the applicant has categorically admitted his liability to reimburse the State Government the

amount of loss caused. As the applicant had categorically admitted his guilt and liability, neither the applicant was prosecuted nor was any enquiry conducted against the applicant for the acts of misconduct. The applicant has repaid an amount of Rs. 1,00,000/- and thereafter periodical amounts were recovered from the applicant and in this fashion, an amount of about Rs. 4,00,000/- was recovered from the applicant by the time he retired from service. Belatedly, by filing the present O.A., the applicant has challenged the action on the part of the respondents in recovering the amount from the applicant. The applicant cannot be permitted to approbate and reprobate. The applicant is trying to blow hot and cold at the same time. In my considered view, the applicant would be estopped from resiling from his admission made in his reply to the show cause notice, a copy of which is filed at record Page No.44. I do not find any illegality on the part of the respondents in proceeding to recover the balance amount from the applicant, which liability the applicant has admitted

in his reply to the show cause notice. As there is no merit in the O.A., the same stands dismissed in limini.

sd/-

(Justice A.P.Deshpande)
Vice-Chairman

Pdg