

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.239/2016.

(S.B.)

Sharad Laxmanrao Nandurkar,
Aged about 40 years,
Occ-Circle Officer,
R/o Mahajan Layout, Ward No.7,
Taluka-Saoner, Distt. Nagpur.

Applicant.

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Revenue and Forests,
Mantralaya, Mumbai-400 032.
- 2) The Divisional Commissioner,
Nagpur Division, Nagpur.
- 3) The Collector,
Civil Lines, Nagpur.

Respondents

Shri Bharat Kulkarni, the learned counsel for the applicant.

Shri A.P. Potnis, the learned P.O. for the respondents.

Coram:-Shri J.D. Kulkarni,
Vice-Chairman (J)

JUDGMENT

(Delivered on this 22nd day of January 2019.)

Heard Shri Bharat Kulkarni, the learned counsel for the applicant and Shri A.P. Potnis, the learned P.O. for the respondents.

2. The applicant has challenged the impugned order dated 14.3.2016, 22.1.2012 and 1.2.2014. Vide impugned order dated 27.1.2015 at page Nos. 13 to 15 (both inclusive), the Collector, Nagpur was pleased to issue following order in the departmental enquiry:-

“श्री. एस. एल. नांदुरकर, मंडळ अधिकारी, भिष्णूर, तहसील नरखेड यांचेविरुद्ध चौकशी प्रकरणात सिद्ध झालेल्या आरोपांचे गांभीर्य लक्षात घेता त्यांनी सादर केलेले लेखी निवेदन संयुक्तिक नसल्यामुळे त्यांना देय असलेल्या पुढील दोन वेतनवाढी कायमस्वरूपी रोखण्याची शिक्षा देण्यात येत आहे.”

3. Against the said order in the departmental enquiry, the applicant preferred an appeal before the Divisional Commissioner, Nagpur Division, Nagpur (R.2) and the Divisional Commissioner, Nagpur Division, Nagpur, vide order dated 11.9.2015 modified the order passed in the departmental enquiry as under:-

“श्री. एस. एल. नांदुरकर यांचेविरुद्ध जिल्हाधिकारी, नागपूर यांनी पारित केलेल्या अंशतः बदल करित असून, भावी काळातील वेतनवाढीवर परिणाम होणार नाही अशा रीतीने दोन वर्षासाठी त्यांची पुढील वेतनवाढ रोखण्यात येत आहे.”

4. In consequence of the order passed by the appellate authority, the Collector, Nagpur again passed the order on 14.6.2016 as per Annexure A-1 (Page 11 & 12) whereby suspension period of the applicant from 22.1.2012 to 1.2.2014 was treated as

suspension as such in view of the findings on charge Nos. 4, 7 and 8.

All these orders are challenged in this O.A.

5. Perusal of the order passed in the departmental enquiry by the Collector, Nagpur shows that in all following eight charges were framed against the applicant and the inferences drawn thereon are as under:-

अ. क्र.	आरोप / दोषारोप	निष्कर्ष
१	मौझा खंडाळा, डूमरी सर्व्हे नं १०३ फेरफार क्र.५९२ मध्ये शहानिशा न करता फेरफार मंजूर करणे.	सिद्ध होतो
२	कार्यालयात हजर राहण्याचे आदेश देऊनही कार्यालयीन प्रमुखाची पूर्वसूचना न घेता गैरहजर राहणे.	सिद्ध होत नाही.
३	जनगणना २०११ चे कामात दिरंगाई करणे.	सिद्ध होत नाही.
४	संत्रा पिकाची तलाठ्यामार्फत सर्वेक्षण करून माहिती देण्यास टाळाटाळ करणे.	अंशतः सिद्ध होतो
५	तलाठी दफ्तराची तपासणी न करणे.	सिद्ध होत नाही.
६	अवैध गौण खनिज प्रकरणात पथकासोबत धाडी न करणे.	सिद्ध होत नाही.
७	मौझा पालोरा त. सा. क्र. ११ अ येथील कोतवालडुंगे जमिनीबाबत माहिती तपासणी न करणे व तलाठ्यावर नियंत्रण ठेवण्यास कसूर करणे.	अंशतः सिद्ध होतो
८	कृषी अधिकाऱ्याकडील तक्ते वेळेवर सादर न करणे.	अंशतः सिद्ध होतो

6. The Collector, Nagpur being the competent authority came to the conclusion that charge Nos. 1 and 7 were

proved whereas charge Nos. 4 and 8 were partly proved and remaining charges were not proved. The competent appellate authority i.e. the Divisional Commissioner, Nagpur in the appeal came to the conclusion that charge No. 1 cannot be proved in view of decision given by the Hon'ble High Court and considering the charges proved as per charge No.7, order of punishment was modified and instead of withholding the increment of the applicant permanently, same were withheld for two years only.

7. The learned counsel for the applicant submits that both the authorities i.e. the Collector, Nagpur and the Divisional Commissioner, Nagpur did not consider the fact that observations of the Inquiry Officer are vague in nature and it is not proved as to which part of the charge has been proved and which is not proved. It is further stated that the authorities have not considered the written submissions made by the applicant in defence and fact there was no evidence at all. Both the authorities, therefore, ought to have exonerated the applicant and should have treated the suspension period as duty period.

8. I have perused the order passed by the competent authority i.e. the Collector, Nagpur. In the entire order, the Collector, Nagpur has not considered the evidence in departmental enquiry. It

is stated that the Hon'ble High Court, Bench at Nagpur has found the applicant not guilty for charge No.1. But the written submissions of the applicant as regards charge Nos. 4, 7 and 8 was held relevant and, therefore, same was rejected. The appellate authority came to the conclusion that holding the applicant guilty for charge No.1 was not proper in view of order passed by the Hon'ble High Court, Bench at Nagpur. It was, therefore, held that the applicant cannot be held guilty as regards charge No.1. It is stated that considering the nature of charge No.1, it was necessary to modify the order and, therefore, the order was modified and increments were withheld for two years only, instead of permanently. In both the orders i.e. one passed by the Collector, Nagpur and the other in appeal passed by the Divisional Commissioner, Nagpur, nothing is discussed as to how the applicant is guilty for the charges framed against him and what was the evidence. In fact, there is no reference to the evidence at all. The appellate authority did not consider how the charge Nos. 4 & 8 were partly proved and charge No.7 was proved. It is also not made clear as to how the Collector, Nagpur and the Divisional Commissioner, Nagpur came to the conclusion that the charge Nos. 4 and 8 were partly proved and which part of the charge was proved and which was not proved. Partly proved charges are charge No.4

i.e. "संत्रा पिकाची तलाठ्यामार्फत सर्वेक्षण करून माहिती देण्यास टाळाटाळ करणे"

and the charge No.8 is, "कृषी अधिकाऱ्याकडील तक्ते वेळेवर सादर न करणे".

Both these charges are very vague charges and it is not stated as to which part of the charge was proved and which was not proved.

Similarly, only the charge which is alleged to be proved against the applicant is charge No.7 as, "मौझा पालोरा त. सा. क्र. ११ अ येथील कोतवालडुंगे

जमिनीबाबत माहिती तपासणी न करणे व तलाठ्यावर नियंत्रण ठेवण्यास कसूर करणे." It is

now known as to what exact act is committed by the applicant.

9. I have also perused the Inquiry Report. The discussion as regards these charges in the Inquiry Report is also vague. Neither the Collector, Nagpur nor the Divisional Commissioner, Nagpur considered the written submission made by the applicant in his defence. From the record, therefore, it seems that this is a case of "No evidence". The disciplinary authority as well as the appellate authority ought to have considered the submission of defence filed by the applicant and should have exonerated the applicant, as the charges in the departmental enquiry are vague and there seems to be no direct connection of the applicant for such charges. It is not known as to what exact omissions are committed by the applicant for not getting so-called work done from Talathi. As

already stated, the Inquiry Officer or the Disciplinary Authority nor the Appellate Authority have considered the fact as to which part of the charges were proved and which were not proved.

10. In view of discussion in foregoing paras, the orders passed by both the authorities are, therefore, not legal and proper and consequently suspension period which is treated as suspension as such, is also not proper. Hence, I proceed to pass the following order:-

ORDER

- (i) The O.A. is allowed in terms of prayer clauses Nos. (i), (ii) and (iii).
- (ii) No order as to costs.

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

Dt. 22.1.2019.
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