

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO.431/2015.**

Ramesh Lahanuji Telrandhe,  
Aged about 51 yrs.,  
Occ-Service,  
R/o Mohata Colony, Nandura,  
Distt. Buldhana.

**Applicant**

**-Versus-**

- 1) The State of Maharashtra,  
Through its Secretary,  
Department of Revenue,  
Mantralaya, Mumbai-440 032.
- 2) The Collector,  
Buldhana.
- 3) The Sub-Divisional Officer,  
Malkapur, Distt. Buldhana.

**Respondents**

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Shri S.N. Gaikwad, Ld. Counsel for the applicant.  
Shri A.P. Potnis, learned P.O. for the respondents.

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

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**JUDGMENT**

**(Delivered on this 21<sup>st</sup> day of June 2017.)**

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

2. The applicant is a Talathi in the office of respondent No.3 i.e. Sub-Divisional Officer, Malkapur. A departmental enquiry was initiated against the applicant and vide impugned order dated 20.5.2014, the Sub-Divisional Officer, Malkapur passed the following order:-

“सबब अपचार यांनी सादर केलेले ज्ञवेदन असमाधानकारक असण्यामुळे यांचे म.ना. से. (शांत व अपील ) ज्ञयम ५ (१) नुसार दोन वेतनवाढ पुढील वेतनवाढवर पारणाम करता कायमवपी रोखण्याची शांत देण्यात येत आहे.”

3. The applicant filed an appeal against the said order of punishment to respondent No.2 i.e. the Collector, Buldhana and the Collector, Buldhana vide impugned order dated 19.1.2015 was pleased to confirm the order passed by respondent No.3 i.e. Sub-Divisional Officer, Malkapur and the appeal was dismissed.

4. Being the aggrieved by the order passed by the Sub-Divisional Officer, Malkapur (R.3) in the departmental enquiry as aforesaid and also the order passed by the respondent No.2 i.e. the Collector, Buldhana dated 19.12.105, the present O.A. has been preferred. The applicant has prayed that both the impugned orders dated 20.5.2014 passed by the Sub-Divisional Officer, Malkapur and

the impugned order dated 19.1.2013 passed by the Collector, Buldhana be quashed and set aside.

5. Respondent Nos. 2 and 3 filed an affidavit-in-reply and tried to justify both the orders. It is stated that the applicant has committed serious misconduct and, therefore, departmental enquiry was initiated against him under Rule 8 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (hereinafter referred to as 'D & A Rules') and after giving full opportunity to the applicant, an order of punishment was passed. The appellate authority as well as competent authority have considered the case of the applicant with a proper perspective and after giving full opportunity, the order of punishment was passed and thereafter confirmed by the appellate authority.

6. According to the learned counsel for the applicant, the competent authority as well as the appellate authority did not consider the grounds made out by the applicant. It is stated that the evidence is not properly appreciated. The appellate authority did not consider the applicant's submission. It is stated that two increments of the applicant have been stopped permanently and this has caused great prejudice to the applicant on

his pension. The applicant has retired and the points raised by the applicant were not considered with a proper perspective by the appellate authority.

7. Perusal of the Enquiry Report shows that three charges were framed against the applicant which were as under:-

१. चांदूर ब्रॉवा तलाठ सायाचे कायदेपाल नदप्राप्तून मोया म्माणात वाळूचे उखननाकडे दुल करणे.

सदर मुदा मला पूणघणे अमाय असून याबाबत सवतर पषटकरण प . २ मुदा . १ मये सादर केले आहे.

२. दैनंदिन शासकाय कामकाजाकडे दुल करणे.

सदर मुदा सुधा मला पूणघणे अमाय असूनदोषारोप प . मुदा . २ मये याबाबत सवतर पषटकरण सादर केले आहे.

३. कतयावर अनाधिकृतपणे गैरहजर राहणे.”

8. The Sub-Divisional Officer, Malkapur is the competent authority to take action on the report of the Enquiry Officer. The Sub-Divisional Officer, Malkapur merely mentioned in his report that the applicant has submitted written submission on 25.11.2013. But no comments have been made on the submission made by the applicant.

9. In the appeal memo, the applicant has raised various grounds to show as to how the order passed by the Sub-Divisional Officer, Malkapur was not proper. The applicant also took alternative plea of leniency and submitted that because of withholding of his increments with permanent effect, his pension has been reduced considerably and requested that the punishment inflicted on him be reconsidered. I have perused the order passed by the appellate authority i.e. the Collector, Buldhana. The Collector, Buldhana observed that the charge No.1 is not proved and the charge Nos. 2 and 3 have been proved and he is satisfied that the order passed by the competent authority i.e. the Sub-Divisional Officer, Malkapur was proper and there is no need to change it. Perusal of the order passed by the Collector, Buldhana shows that the appellate authority has not considered as to what were the grounds raised by the applicant. There is nothing on record to show that the Collector, Buldhana applied his mind to see as to whether the order passed by the Sub-Divisional Officer, Malkapur was legal and proper. He has also not considered the points raised by the applicant in his appeal memo as well as the ground of leniency. The order of appellate authority, therefore, seems to be totally a case of non application of mind. It does not see from the order passed by the Collector, Buldhana that proper opportunity was given to the applicant. Merely because the Collector, Buldhana

observes that there is no need to change the order of competent authority, it cannot be said that the appellate authority has applied his mind. In view of this, I am satisfied that the appellate authority has not considered the points raised by the applicant nor has given any opportunity to the applicant to submit his case and, therefore, it will be in the interest of justice to send the matter back to the Collector, Buldhana for proper appreciation of facts and circumstances and grounds raised by the applicant in his appeal memo. Hence, I pass the following order:-

**ORDER**

- (i) The O.A. is partly allowed.
- (ii) The order passed by the Collector, Buldhana in departmental appeal No.APT-5/3/13-14 dated 19.1.2015 is quashed and set aside.
- (iii) The matter is remanded back to the Collector, Buldhana
- (iv) The Collector, Buldhana is directed to give an opportunity to the applicant to make his submission personally before him.
- (v) The Collector, Buldhana shall go through all the documents of enquiry as well as the points made out in the appeal memo and after hearing the applicant in person, shall decide the appeal afresh without having being influenced by any of the observations made in this order.

- (vi) A decision on the appeal shall be taken within a period of **three months** from the appearance of the applicant before the Collector, Buldhana.
- (vii) The applicant is directed to appear before the Collector, Buldhana within **one month** from the date of passing of this order.
- (viii) No order as to costs.

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

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