

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO.433/2015.**

Kailas Mahadu Nikumb,  
Aged about 48 yrs.,  
Occ-Service,  
R/o At Nagaon,, Post Bahute, Tehsil-Parola,  
District-Jalgaon.

**Applicant**

**-Versus-**

- 1) The State of Maharashtra,  
Through its Secretary,  
Department of Revenue,  
Mantralaya, Mumbai-440 032.
- 2) The Joint District Registrar,  
Stamp and Revenue Department,  
Collector Office, Buldhana.
- 3) The Disciplinary Authority and  
Collector, Buldhana.

**Respondents**

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Smt. S.W. Deshpande, Ld. Counsel for the applicant.  
Smt. S.V. Kolhe, learned P.O. for the respondents.

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

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**Per:-Vice-Chairman (J)**

**JUDGMENT**

**(Delivered on this 11<sup>th</sup> day of August 2017.)**

Heard Smt. S.W. Deshpande, the learned counsel for the applicant and Smt. S.V. Kolhe, the learned P.O. for the respondents.

2. The applicant Kailas Mahadu Nikumb joined the services of the respondents as Driver. Initially he was appointed on 13.8.1996 at Jalgaon (Khandesh). He was thereafter transferred to the office of Tehsildar, Amalner on 24.9.1997 and thereafter at Parola, District Jalgaon and on deputation in the office of Joint District Registrar, Buldhana. He was transferred from one place to other in a routine course and was finally transferred to the office of Joint District Registrar, Buldhana on 4.3.2006 where he was worked for about six years.

3. The applicant received a show cause notice on 1.7.2011. It was the applicant who gave reply to the notice. He was transferred to the office of Deputy Inspector General of Registration, Pune, but fell ill before joining at Pune. He attended the office at Pune on 11.7.2012, but was not allowed to join. The applicant was in fact relieved from Buldhana to joint at Pune on 14.5.2012.

4. The applicant replied to the chargesheet on 9.1.2013 wherein it was alleged that he was absent from duty for 797 days for the period from 4.7.2006 till 18.12.2013. The applicant also replied

the show cause notice. But a departmental enquiry was initiated against him. In the said enquiry, respondent No.3 i.e. Collector, Buldhana issued termination order on 30.8.2014 whereby the services of the applicant came to be terminated. According to the applicant, issuance of chargesheet as well as consequent enquiry against him is illegal. He has, therefore, prayed that the chargesheet against him (Annexure A-1) and termination order dated 30.8.2014 (Annexure A-6) passed by respondent No.3 i.e. Collector, Buldhana be quashed and set aside. It is stated that the chargesheet as well as the order of termination has been issued without application of mind. The Collector, Buldhana did not consider the documents on record and the documents submitted by the applicant were also not considered.

5. Respondent No.2 i.e. the Joint District Registrar of Stamps, Buldhana has filed reply affidavit and justified the action against the applicant. It is stated that respondent No.3 i.e. Collector, Buldhana being the disciplinary authority has issued memorandum of chargesheet to the applicant on 4.1.2014 and the departmental enquiry was initiated under Rule 8 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (in short "Discipline and Appeal Rules"). The Enquiry Officer gave full opportunity to the applicant and after considering the evidence on record, the order of termination was

issued. The respondents denied that the documents were not supplied to the applicant. It is further submitted that the period of absence has been properly calculated.

6. We have perused various documents placed on record. The charges against the applicant in the departmental enquiry were as under:-

**“आरोप १.-** एकूण ७९७ दिवस जनापरवानगीने गैरहजर.

**आरोप २.-** आपऱया गैरवतऱुकाऱुळे शासकाऱय कामकाजात अडचणी जनाऱया व पयाऱाने शासनाऱया महसुलाचे देखील नुकसान झाले.”

7. The learned counsel for the applicant submits that the calculation in charge No.1 dated 2.11.2012 to 27.2.2012=118 days+, is not correct. However, we do not find any substance in the said submission. According to the applicant, no opportunity was given to him and the documents were not supplied and, therefore, departmental enquiry is vitiated. However, perusal of the record shows that these are the only statements without substance. Perusal of the Enquiry Report shows that the applicant was given an opportunity to cross-examine the witnesses and also to submit his explanation on the evidence and after considering the evidence on record, the applicant

was dismissed from service. Before serving dismissal order, a show cause notice was also given to the applicant. The applicant submitted his reply to the show cause notice which was also considered by the competent authority. The competent authority came to the conclusion that the applicant was absent from duty and it seems that it was his routine habit to remain absent. The total period of absence is 797 days and this must have caused great inconvenience to the office and the official work. The applicant could not place on record any evidence in support of his submission that fair opportunity was not given to him.

8. It is material to note that against the order of dismissal, the applicant preferred an appeal, but not before the competent authority. His appeal memo was, therefore, returned for filing it before the competent authority. The applicant, however, did not take care to file departmental appeal. The learned counsel for the applicant submits that the applicant be given opportunity to file an appeal before the competent authority against the order of dismissal.

9. The learned counsel for the applicant submits that the applicant shall be granted opportunity to file an appeal by condoning the delay in filing appeal. We are of the opinion that, no direction can be issued for condonation of delay in filing the appeal. In this case, the

applicant was in fact directed to file an appeal before the competent authority when his appeal memo was returned by the Deputy Inspector General of Registration, Pune and the Deputy Collector of Stamps, Amravati on 20.9.2014 and he was directed to file an appeal before the competent authority. However, the applicant has approached his Counsel at Nagpur and then filed this O.A. The applicant has tried to make out a case that due to dislocation of right knee, he was under medical treatment.

10. From whatever reasons it may be, but it is a fact that the applicant has not filed an appeal before the competent appellate authority.

10. As already stated, we do not find any illegality in the say of the applicant that no opportunity was given to him by the Enquiry Officer. The applicant could not explain properly as to why he remained absent for such a long period and frequently without permission and therefore, in such circumstances, we do find any reason to interfere in the order passed by the Collector, Buldhana.

11. In view thereof, we proceed to pass the following order:-

**ORDER**

The O.A. stands dismissed with no order as to costs.

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

(Rajiv Agarwal)  
Vice-Chairman (A)

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