

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 533/2014

Dr. Latish S/o Krishnarao Deshmukh,
Aged about 57 years, Occ. Service as
Regional Deputy Director,
(Municipal Administration),
Commissionerate, Civil Lines, Nagpur
R/o Civil Lines, Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai-32.
- 2) Smt. Pratibha K. Mangudkar,
Under Secretary, UD-15,
Urban Development Department,
New Administrative Building,
7th floor, in front of Mantralaya,
Mumbai-32

Respondents

S/Shri M.I. Dhattrak, S.A. Sahu, Advocates for the applicant.

Shri M.I.Khan, P.O. for the respondents.

Coram:- Hon'ble Shri B. Majumdar, Vice Chairman
&
Hon'ble Shri R.B. Malik, Member (J).

Dated: - 27/04/2016.



ORDER -

PER : MEMBER (J).

The issue that this Original Application (O.A.) throws up for determination is the validity of an action taken after prolonged delay in completion of a departmental inquiry (D.E.).

2. We have perused the record and proceedings and heard the submissions of Shri M.I. Dhatrak, Id. Counsel for the applicant and Shri M.I. Khan, Id. Presenting Officer (P.O.) for the Respondents.

3. The facts to the extent they are strictly relevant for the purposes of disposal of this O.A. are that the applicant was given a charge sheet in respect of alleged acts committed by him while working as Chief Officer in the Municipal Council, Wardha during the period from 8-10-1997 to 4-1-2000. The order was dated 11-8-2003. The allegations were pertaining to the unauthorised uses of security guards, improper uses of the official vehicle in which connection he allegedly caused loss of Rs.84,838/-. It was further alleged that applicant used the services of the servants at his residence, that he allegedly used STD facilities contrary to his entitlement, that he travelled through 1st Class though his entitlement was to travel by Sleeper Class. There were certain other allegations at the time of his posting at Chandrapur.



4. Nothing practically happened till 5th July, 2014 after the events that took place in 2003. On 5-7-2014, it was for the first time that the Regional Inquiry Officer, Nagpur was appointed as an Inquiry Officer in the matter against the applicant then again nothing has happened till date.

5. In the affidavit-in-reply filed by the R-2 on behalf of R-1 and herself there is not even a particle of material to justify such a long delay. The history regarding the applicant's career which we are unconcerned with has been charted out.

6. The learned P.O. Shri M.I. Khan, told us that the delay could be because of the pendency of this O.A. That very obviously cannot be so because, this O.A. was filed in the year 2014 and the delay is from the period 2003-14. Therefore, it is quite clear that there is no explanation at all for the delay. In fact we do not think any explanation could have been there.

7. The affidavit-in-reply insists on the right of the employer to initiate D.E. against his employee. Now at this stage, in the evolution of public administration and service jurisprudence if the idea is to suggest that this power is unbridled we can quite safely reject the same. The issue of public service and public servant is constitution regulated and therefore an employer be it the mightful state cannot

invoke just good humour in justification of the indolence that is manifested by the record.

8. Shri M.I. Dhattrak, Id. Counsel for the applicant in our view rightly relied upon the State of Madhya Pradesh Vs. Bani Singh [AIR 1990, SC 1308]. In para-4 it has been held by the Hon'ble Supreme Court that the delay and latches in the facts and circumstances like the present one are clearly fatal to the cause of the respondents.

9. In view of the foregoing, we have no hesitation in holding that the action of the respondents is legally unsustainable. The departmental inquiry itself will have to be quashed and set aside.

10. The departmental inquiry against the applicant initiated with the charge sheet dated 11-8-2003 and continued by virtue of the order of the State of Maharashtra through Urban Development Department dated 5-7-2014 stands hereby quashed and set aside. The respondents should now proceed on the basis as if no such D.E. was ever pending against the applicant.

11. This O.A. is allowed in these terms, with no order as to costs.

sd/-

(R.B.Malik)
Member (J).

dnk.

sd/-

(B. Majumdar)
Vice-Chairman.