

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 55 /2019 (D.B.)

Shashimohan Gangadhar Nanda,
Aged 56 years, Occ. Service,
R/o Darda Nagar, Yavatmal

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Urban Development Department,
Mantralaya, Mumbai-32.
- 2) Commissioner/ Director,
Municipal Administration,
Having its office at Govt. office,
3rd floor, Sri Pochkhanwala Marg,
Worli, Mumbai.
- 3) Regional Enquiry Officer,
Amravati Division, Amravati.

Respondents.

Shri S.P. Palshikar, Advocate for the applicant.

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

**Coram :- Shri Shree Bhagwan,
Member (A) and
Shri A.D. Karanjkar, Member (J).**

JUDGMENT

Per : Member (J).

(Delivered on this 14th day of February,2019)

Heard Shri S.P. Palshikar, learned counsel for the
applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. On perusal of the record, it seems that the applicant was appointed in service in the year 1993 as Chief Officer, Municipal Council, Degloor. The applicant was posted as Chief Officer, Municipal Council, Akot in the year 2004. The applicant received the charge sheet dated 28/01/2008. The charges against the applicant were that without permission of the General Body of the Municipal Council, he collected amount of Rs. 25/- from 10 persons as sanitation tax, the applicant collected the advertisement fee Rs.200/-, technical examination fee Rs.200/- from 32 persons though there was no such resolution passed by the Municipal Council, though there was no resolution passed by the Municipal Council, the applicant received Rs.10/- per square meter tax in 105 matters to regularise the Gunthewari properties. It was also alleged that without authority the applicant directed Shri Sure, Superintendent to write the proceeding, the applicant was not working as per the directions of the President of the Municipal Council and on 14/01/2004 the applicant worked wearing black Ribbon.

3. The applicant submitted reply to the charge sheet Annex-A-1, vide his reply at Annex-A-3 dated 29/02/2008. It was submitted by the applicant that the President of the Municipal Council, Akot was politically motivated, he was not taking decisions as per the rules and regulations and law. The President of the Municipal Council was

issuing illegal directions to the applicants and as the directions were not followed by the applicant, there was agitation against the applicant. It is submitted by the applicant that action was initiated by him against the persons who were engaged in the activities relating sanitation of Akot City, but one of the Members of Municipal Council, Akot brought human excrete and thrown it in front of the office of the Chief Officer, Municipal Council, Akot. The applicant clearly stated that due to this disgraceful act of the Member of the Municipal Council, he wore black Ribbon in protest and worked in the office. The applicant denied that he made any demonstration. Thus all the charges were denied by the applicant.

4. It further appears that the Government for the first time passed order dated 17/02/2016 and appointed the Regional Divisional Inquiry Officer, Amravati Division, Amravati to conduct the disciplinary inquiry against the applicant. The said order is at Annex-A-5. Though the Inquiry Officer was appointed vide order dated 17/02/2016 there was no initiation of the actual inquiry, consequently vide Annex-A-6 dated 27/04/2018 the Additional Secretary of Govt. of Maharashtra wrote letter to the Inquiry Officer who is respondent no.3 to complete the inquiry within a period of six months. The Inquiry Officer was also directed to submit the progress report of the inquiry after intervals of 15 days.

5. In the above background, it is submitted by the learned counsel for the applicant that even after expiry of the period six months, the inquiry is not initiated and this amounts to harassment and victimisation of the applicant. The learned counsel for the applicant submitted that in respect of the conduct in the year 2004, the charge sheet was served on the applicant after four years in 2008, the Inquiry Officer was appointed in the year 2016 and in spite of it the inquiry is not commenced. This shows that the respondents are not serious about the inquiry, but due to this conduct of the respondents the applicant is in mental stress and now he apprehends that this will cause great prejudice to the career of the applicant.

6. It is submission of the applicant in case of **State of U.P. versus N. Radhakishan (1998) 4 SCC,154** and **Prem Nath Bali versus Registrar, High Court of Delhi & Ano.,AIR 2016 SCC, 101.** The law is laid down that every employer whether the State or Private must make sincere endeavour to conclude the departmental inquiry proceedings initiated against the delinquent employee within a reasonable time by giving priority to such proceeding and as far as possible it should be concluded within six months as an outer limit where it is not possible for the employer to conclude due to certain unavoidable causes, then also it must be completed within extended period of one year, but not later.

7. In view of law discussed in para-33 in case of Prem Nath Bali versus Registrar, High Court of Delhi (cited supra), when this matter came up before the Bench on 06/02/2019 specific direction was given to the learned P.O. to file reply on or before 12/02/2019. The fact is that on 12/02/2019 the learned P.O. did not submit the reply, no information was given about the progress of the inquiry.

8. It appears from the facts and circumstances of the case that there is a hanging sword of the departmental inquiry on the head of the applicant since 2008, after expiry of a period more than 10 years, the inquiry is not concluded. Not only this but no just reason is shown why the inquiry was not commenced at all.

9. It seems that on 17/02/2016 the respondent no.3 was appointed to conduct the inquiry as per Rule- 8 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 but the respondent no.3 remained silent consequently the letter was issued by the Additional Secretary of Government of Maharashtra to the respondent no.3 on 27/04/2018. It was specifically directed to conclude the inquiry within a period of six months and to submit the report of the progress of the inquiry after every 15 days. It seems that the respondent no.3 did not pay any heed to this mandatory direction. Considering these facts and circumstances, as a matter of fact looking to the nature of the charges, it is not proper to permit the respondents

to harass the applicant more. In this regard, we would like to consider the observations made by the Hon'ble Apex Court in case of State of U.P. versus N. Radhakishan (cited supra). In para-19 the following observations are made –

“It is not possible to lay down any pre-determined principles applicable to all cases and in all situations where there is delay in concluding the disciplinary proceedings. Whether on that ground the disciplinary proceedings are to be terminated each case has to be examined on the facts and circumstances in that case. the essence of the matter is that the court has to take into consideration all relevant factors and to balance and weight them to determine if it is in the interest of clean and honest administration that the disciplinary proceedings should be allowed to terminate after delay particularly when delay is abnormal and there is no explanation for the delay. The delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his part in delaying the proceedings. In considering whether delay has vitiated the disciplinary proceedings the Court has to consider the nature of charge, its complexity and on what account the delay has occurred. if the delay is unexplained prejudice to the delinquent employee is writ large on the face of it. It could also be seen as to how much disciplinary authority is serious in pursuing the charges against its employee. It is the basic principle of administrative justice that an officer entrusted with a particular job has to perform his duties honestly, efficiently and in accordance with the rules. If he deviates from this path he is to suffer a penalty prescribed. Normally, disciplinary proceedings should be allowed to take its course as per

relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for delay or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the court is to balance these two diverse considerations”.

10. In view of the above observations, in our opinion it would be suitable to give one more opportunity to the respondents to complete the inquiry within a period of three months if the respondents have sincere desire to proceed with the disciplinary inquiry. We hope that such direction will serve the ends of the justice and will protect the interest of the applicant as well as it will give a chance to the respondents to complete the inquiry. Hence, the following order –

ORDER

- (i) The O.A. is partly allowed.
- (ii) The respondents are directed to complete the inquiry within a period of three months from the date of this order, on failure of the respondents to complete the inquiry within a period of three months, the applicant will stand exonerated of all the charges. No order as to costs.

(A.D. Karanjkar)
Member(J).

Dated :- 14/02/2019.

*dnk.

(Shree Bhagwan)
Member (A).