

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 57/2017 (S.B.)**

Manik S/o Natthuji Bobde,  
Aged 64 years, Occ. Retired,  
R/o 3A, Treasury Colony, Morshi Road,  
Amravati.

**Applicant.**

**Versus**

- 1) The Honourable Minister, Rural  
Development Department,  
Mantralaya Extension, Mumbai.
- 2) The State of Maharashtra,  
through its Secretary, Finance Department,  
Mantralaya Extension Bhavan, Mumbai.

**Respondents.**

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**S/Shri S.J. Kadu, R.A. Haque, Advocates for the applicant.**

**Shri S.A. Sainis, P.O. for the respondents.**

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**Coram :- Hon'ble Shri Shree Bhagwan,  
Vice-Chairman.**

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**Date of Reserving for Judgment : 27<sup>th</sup> January,2021.**

**Date of Pronouncement of Judgment : 22<sup>nd</sup> February,2021.**

**JUDGMENT**

**(Delivered on this 22<sup>nd</sup> day of February,2021)**

Heard Shri R.A. Haque, Id. Counsel for the applicant and  
Shri S.A. Sainis, learned P.O. for the respondents.

2. The applicant was working as Deputy Accountant at  
Treasury Office, Amravati since 9<sup>th</sup> September,1997. He was placed

under suspension under Section 4 (1) (a) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 by the Deputy Director, Accounts and Treasury Department, Amravati on 18/12/2006 (A-1, P-18) for the reason that departmental inquiry/ criminal action was under consideration against the applicant. The applicant made communication dated 24/1/2008 (A-2,P-19) to the Secretary (Audit and Accounts) Finance Department, Mumbai to revoke his suspension as after a lapse of more than one year neither charges were levelled against him nor departmental inquiry was started against him. The charge sheet was served on the applicant on 29/8/2008 (A-5,P-25) along with the details of the charges and the list of witnesses. By the communication dated 31/10/2008 an Enquiry Officer was appointed to conduct the departmental inquiry. The Enquiry Officer proceeded with the enquiry proceedings and by the enquiry report dated 30/4/2009 (A-7,P-34) exonerated the applicant from the charges levelled against him because the preliminary enquiry report was not given to the applicant and his explanation was not called before conducting the departmental enquiry. Thereafter, on 4/8/2010 (A-8,P-39) the State issued the show cause notice to the applicant stating that the State Government disagreed with the report submitted by the Enquiry Officer and the applicant was called upon to submit his representation/ defence within 10 days to the State. The applicant replied to the show

cause notice on 6/9/2010. Again the respondent no.2 issued second show cause notice dated 16/3/2011 (A-9,P-40) to the applicant and disagreed with the reply submitted by the applicant and held that the applicant was responsible for misappropriation of 3.89 crores and therefore the applicant was called upon to submit his representation / defence within 10 days why 30% amount permanently should not be deducted from his pension. The applicant replied to the second show cause notice on 11/4/2011 (A-11,P-45). The respondent no.2 disagreed with the reply submitted by the applicant and issued punishment order dated 28/6/2011 (A-13,P-56) and imposed punishment of permanently deducting an amount of 30% from the pension payable to the applicant. Being aggrieved by the said punishment order, the applicant preferred an appeal before the Hon'ble Governor of Maharashtra on 10/8/2011 (A-14,P-60). The Hon'ble Governor of Maharashtra has directed to prefer the applicant's appeal before the Hon'ble Minister,RDD. The respondent no.1, the Hon'ble Minister, Rural Development Department, Mantralaya Extension, Mumbai vide order dated 27/4/2012 (A-15, P-65) dismissed the applicant's appeal and confirmed the order dated 28/6/2011 (A-13,P-56) passed by the respondent no.2. Being aggrieved by this order, the applicant preferred Writ Petition No.4504/2013 before the Hon'ble High Court of Bombay, Bench at

Nagpur on 28/11/2013. The Hon'ble High Court, Bench at Nagpur vide its order dated 28/11/2013 disposed of the Writ Petition with liberty to the applicant to approach before the Tribunal, therefore, the applicant has filed this O.A. The applicant has claimed following reliefs:-

*“(1) By an appropriate order, the order passed by the respondent no.1, the Hon'ble Minister on 24/7/2012 upholding the order passed by the respondent no.2 on 28/6/2011 may kindly be quashed and set aside and the appeal of the applicant dated 10/8/2011 may kindly be allowed.*

*“(2) By an appropriate order of direction, the respondent no.2 be directed to grant the arrears of salary and pension and all other consequential benefits and emoluments to the applicant.”*

3. The learned counsel for the applicant submitted that no opportunity was given to the applicant to defend the inquiry and relevant documents were not supplied and therefore grave injustice has been caused on the applicant. The inquiry conducted is against the principles of natural justice and equity. The competent authority has not considered the recommendation of the Enquiry Officer vide its report dated 30/4/2009 with a proper perspective. The defence was overlooked and not considered properly.

4. The respondent no.2, the Secretary, Finance Department, Mantraya, Mumbai filed reply-affidavit and justified the action taken

against the applicant. It is stated that there is cogent evidence against the applicant in the departmental enquiry and full opportunity was given to the applicant to defend him. In fact very lenient view has been taken against the applicant.

5. Perusal of all the documents on which the punishment order has been challenged clearly shows that there is no whisper that the applicant was not given an opportunity to defend. There is no whisper that the documents were claimed and were not supported.

6. Perusal of the inquiry report clearly shows that there is nothing on the record to show that any material documents were not supplied to the applicant or that no opportunity was given to him. On the contrary, it seems that all the necessary documents were supplied and full opportunity was given to the applicant to cross-examine the witnesses and to submit his statement of defence and not only that applicant also examined himself as a witness. The respondent no.2, the Secretary, Finance Department, Mantraya, Mumbai also filed affidavit and denied the allegations. There is nothing on the record to show that procedure was not duly followed as alleged by the applicant.

7. I have also perused the order passed by the respondent no.1, i.e., by the Hon'ble Minister in the appeal 10/8/2011 (A-14,P-60).

The respondent no.1 has also considered the charges framed against the applicant as well as the documents placed on record and has stated that whatever punishment awarded to the applicant is legal, proper and appropriate.

8. It, therefore, cannot be said that the respondent nos.1&2 have not applied their mind. Since the applicant was responsible for causing financial loss to the Government. It, therefore, cannot be said that the applicant was punished illegally and without any evidence on record. Considering the allegations against the applicant, the respondent nos.1&2 awarded the punishment is based on evidence and therefore it appears that the respondent no.1 has followed all the procedures as per the M.C.S. (Disciplinary and Appeal) Rules, 1979. In this situation, I do not find any reason to interfere in the said decisions. Hence, the following order :-

**ORDER**

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

**Dated** :- 22/02/2021.

**(Shree Bhagwan)  
Vice-Chairman.**

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I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice-Chairman.

Judgment signed on : 22/02/2021.  
and pronounced on

Uploaded on : 22/02/2021.