

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**AURANGABAD BENCH, AURANGABAD.**

**ORIGINAL APPLICATION NO.606/2016.**

**(D.B.)**

Bhagwat Munjabhau Shelke,  
Aged about 32 years,  
Occ-Service as Measurer,  
Jaikwadi irrigation Sub-Division No.6,Pathri,  
R/o At and Post Dnyaneshwar Nagar,  
Pathri, Distt. Parbhani.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Water Resources,  
Mantralaya, Mumbai-400 032.
2. The Superintending Engineer & Administrator,  
Command Area Development Authority,  
Aurangabad.
3. The Executive Engineer,  
Jaikwadi Irrigation Division No.2,  
Parbhani.

**Respondents**

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Shri A.S. Deshmukh, Ld. Advocate for the applicant.  
Shri N.U. Yadav, Ld. P.O. for the respondents.

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**Coram:- Shri J.D. Kulkarni, Vice-Chairman (J) and  
Shri P.N. Dixit, Member (A)**

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

(Delivered on this 7<sup>th</sup> day of April, 2018.)

Heard Shri A.S. Deshmukh, the learned counsel for the applicant and Shri N.U. Yadav, the learned P.O. for the respondents.

2. The applicant in this case has challenged the impugned order of his termination dated 20.7.2016 issued by respondent No.2. The said order is at Annexure A-10, page No.73.

3. The applicant belongs to OBC category and his father Munjabhau Ambadas Shelke was in service of the respondents as Canal Inspector. His father died in harness on 7.10.2006.

4. The applicant applied for appointment in place of his father on compassionate ground and accordingly was appointed as Measurer vide order dated 9.1.2015. However, vide impugned order dated 20.7.2016, his services have been terminated on the ground that he submitted false information and had suppressed the information while filling in the attestation form. According to the applicant, the impugned order of his termination is against the basic

principles of natural justice, equity and good conscience. The said order has been passed illegally, arbitrarily and with high handedness and as such it is irrational and illegal. The said order has been passed as a result of total non application of mind and is colourable exercise of power.

5. According to the learned counsel for the applicant, the impugned order has been issued on the recommendation of the Committee-B which was not constituted as per requirements in Government Circular dated 26.8.2014 and, therefore, such a recommendation ought not to have been accepted by the competent authority. As per G.R. dated 26.8.2014, the appointing authority of the applicant i.e. Superintending Engineer (R.2) was necessary to be a Member of the Committee-B. However, respondent No.2 was not present when the Committee took a decision. There is no provision for substitution of a recommendation of the Member of the Committee. The Member Secretary of the Committee i.e. the Resident Deputy Collector was not present in the meeting dated 10.5.2016 and, therefore, the recommendation is illegal.

6. So far as concealing the fact of not giving proper information in the attestation form, it is stated that there was a

difference in wordings of Question No.11-A in Marathi and English language and the applicant answered the questions in Marathi as per his understanding and he was not facing any prosecution on the date of filling in the attestation form. Applicant also answered Question No.11-B in the negative, as the applicant was not facing trial, but was acquitted and the appeal was pending and, therefore, no trial was pending against the applicant.

7. The respondent Nos. 2 and 3 have filed affidavit in reply and justified the order of termination. It is stated that the applicant did not fill in the correct information while answering Question Nos. 11-A and 11-B of the attestation form and in fact he concealed the fact that the offences were registered against him and appeal was pending against his acquittal. It is stated that the applicant was tried for offences punishable U/s 420, 468, 471, 473, 201 and 394 of the Indian Penal Code on the basis of investigation in Crime No. 42/2011 registered at Police Station, Pathri. The offences under similar Sections i.e. 420, 468 and 471 of the Indian Penal Code was registered against the applicant and he was acquitted on 31.8.2012 in the said offences. Not only that, one more offence punishable U/s 138 of the Negotiable Instruments Act was registered against the applicant and it was withdrawn by the complainant, as there was a

compromise. The applicant was, therefore, habitual offender and he concealed the fact at the time of filling in the attestation form.

8. The learned counsel for the applicant invited our attention to Question Nos. 11-A, 11-B and 11-C in Marathi and English language respectively in the attestation form filled in by the applicant. The Question Nos. 11-A, 11-B and 11-C in Marathi and English language respectively were as under and the applicant answered in the negative i.e. “नाही” in Marathi to these questions.

Applicant's answers given are as under:-

“¼11½¼v½:- rġgkyk U; k; ky; kdMq dksAR; kgh vijK/ġkcny vkrki ; ĩ d/ġgh vVd dj.; kr@LFAkuc/n dj.; kr@o/n dj.; kr@nM dj.; kr@ fl /nns'ġh Bjfo.; kr vkysvkgsdk; ] fdok ykd l ok vk; ksxdMq R; kġ; k i jh{ġkuk@ fuoMhuk cl .; kl rġgkyk eukbz dj.; kr vkyh vkgsdk; ] fdok vugzBjfo.; kr vkys vkgs dk; ] fdok dksAR; kgh fo | ki hBkdMq fdok brj dksAR; kgh 'ġġAF.Ad i kf/ġdj .ġcdMq@l ġFġdMq dksAR; kgh i jh{ġ cl .; kl eukbz dj.; kr vkyh vkgsdk; @ dk<u Vkd.; kr vkysvkgsdk; \

11. (a):-Have you ever been arrested/ prosecuted/ kept under detention, or bound down/ friend/ convicted by a court of law for any offence or debarred/ disqualified by any Public-Service Commission from appearing at its examinations/ selections or debarred from taking any examination/ rusticated by any university or any other educational authority/ Institution?

11(a):- I k{Akadu ueuk HAJrGh dksAR; kgh U; k; ky; kr] fo | ki hBkr fdok  
brj dksAR; kgh 'ASAF.Ad i kf/Adj .Akr@ I LFAR rEP; kfoj/n dksArgh i dJ .A i yfcr  
vkgsdk; ? :- ukgh

11.(b): -Is any case pending against you in any court of  
law, University or any educational authority/ Institution at  
the time of filing up this attestation form?

11(b)d:- vki Y; k fo: /n dksAR; kgh U; k; y; kr QkSt nkjh [AVyk I q vkgsfdok  
dl j I q vl Y; kl R; kpk ri 'Ahy] i dJ .A dekdj dksAR; k U; k; y; kr i dJ .A  
i yfcr vkgsj xhgk dksAR; k dyek [Akyh ukmfoyk vkgsj bR; kfn:- ukgh

11.(c):-Whether he/she is facing any criminal  
prosecution in any court and if yes, state the details  
thereof such as case number, in which court the case is  
pending under which section etc.

11(c)d:- fdok 1/2psmRrj ^gks \* vl sy rj gk ueuk HAJrkauk I nj [AVyk]  
vVd] LFAkuc/nrk] nM nksAFI /nh] f' A{Akns' A bR; krtpk I a qAZri 'Ahy vkf .A U; k; ky;  
/fo | ki hB/' ASAF.Ad i kf/Adj .A bR; kfn fBdk.Ah i yfcr vl yS; k i dJ .Akps Lo: IA  
Li "V djkos

If the answer to (a), (b) or (c) is 'Yes' fill particulars  
of the case, arrest, detention, fine conviction, sentence,  
etc. and the nature of the case pending in the Court/  
University/ Educational authority etc. at the time of filing  
up this form should be given.

11(d):- rI p I k{Akadu ueuk; kP; k I q okrhl vl ysyk \*b' Akjk\* ns[Ahy  
dlk; k i gk1/2

(Note:- Please also see the 'Warning' at the top of this Attestation form)

9. Warning at the top of attestation form in Marathi and English is as under:-

**“1- b' Ajk% ; k I k(Akdu uel; ke/; s [Ak/h i gfo.As fdok oLr(LFArhfun' Ad ekfgrh nMoq B0.Asgh vugrk Bjsy vlf.A R; keGsmenokj I jdkjh ukdjhl vik= Bjsy-**

**Warning 1:-** The furnishing of false information or suppression of any factual information in the Attestation Form would be disqualification and is likely to render the candidate unfit for employment under the Government.

10. From the aforesaid warning, it is clear that the candidate was very well intimated and warned that in case he furnishes false information or suppresses any factual information in the attestation form, he would be disqualified. Knowing full well this, the applicant has filled in the attestation form.

11. The applicant in the attestation form in answer to item No.11-A has answered in the negative to the said question. The said question clearly shows that it was asked to the applicant as to

whether he has ever been arrested / prosecuted / kept in detention etc. for the above-said offences. Considering the fact that the applicant was already tried for various offences on three occasions i.e. twice for the offences punishable U/s 420, 468 and 471 of I.P.C. and once for the offence punishable U/s 138 of the Negotiable Instruments Act, he should have answered the said question properly. The applicant was knowing full well that appeal has been filed against his acquittal in one of the criminal cases and the same was pending before the Appellate Court and, therefore, he should have answered accordingly question No.11-B. However, the applicant has answered both questions in negative.

12. The learned counsel for the applicant submits that the applicant was confused because of the questions in English as well as some questions in Marathi. However, such submission cannot be accepted. Sub-para (2) of question No.11-C clearly shows that if answer of A, B or C is "Yes", the candidate had to fill particulars of the case, arrest, detention, fine, conviction, sentence etc. and nature of case pending in the Court at the time of filing an application form. Thus, there was absolutely no reason for the applicant not to mention about the criminal cases in which he was arrested or tried



and was acquitted. He should have frankly mentioned the fact that he was prosecuted, but was acquitted and should have also stated the fact that in one of the cases in which he was acquitted, the State has filed an appeal and the same was pending. The applicant, however, straightway has given negative answer to Question Nos. 11-A, 11-B and 11-C. Such a mistake cannot be said to be inadvertent. On the contrary, concealment seems to be deliberate.

13. We have perused the impugned order of the competent authority whereby the applicant's services have been terminated. The competent authority has observed as under:-

"[kfy l v f/ A{ Ad i j HA. Ah] ; kauh R; kps i = dz331@tfo' Ak@pki @2015] fn-20-07-2015 vUo; si Lr r; idj. Ah p k d' Ah d: u vgoky dk; Zkjh v f HA; ark] tk; doMMh i kVc d/ Akjs fo Hkx dz 2] i j HA. Ah ; kps d M q i klr > kyk vkgs

Jh- 'AGds ; kR; k fo: /n i kfy l LVs Au i kFAjh ; FAs xju@42@2011 dye 420]468]471]473]201] 394 Hk- na fo- 138 eq kcdk i zek. As x d gk nk [Ay > kyk gkrk- I nj x d g; kr U; k; n M k f/ Ad k j h] i F Ae ox d] i kFAjh ; kauh fn-16-02-2012 jksth R; kauh funk d A I k M y s r l p i kfy l LVs Au i kFAjh xju@48@2011 dye 420]468]471 Hk n d h i zek. As x d gk nk [Ay v l q u I nj x d g; kr U; k; n M k f/ Ad k j h] i F Ae ox d] i kFAjh ; kauh fn-31-0-2012 jksth R; kauh funk d A I k M y s r l p i kfy l LVs Au i kFAjh xju@181@2012 dye 138 eq kcdk i zek. As R; kR; koj x d gk nk [Ay v l q u I nj P; k x d g; kr fn-01@09@2014 jksth r M t k M > kY; kps d G fo y s g k r s

; k vgokykuil kj Jh-ch- e- 'AGds ekst. Ahnkj ; kauh I k f/ Akdu uet d; ke/; s [Ak v h ekfgrh i j fo. As f d o k o L r d [L F Ar h fun' A d ekfgrh n M i q u B o Y; kps fun' A k l v k Y; ke G s r l p R; kps fo: /n nk [Ay v l y s Q k s t n k j h idj. As y { A k r ? A s k r l p ' A k l u l k - i z fo i f j i = d d z e k d p k i v & 1012 @ i z d z 63 @ 16 & v ] fn-26@08@2014 vUo; spkfj =; i Mrk G. Ah I ferh 1/2 c 1/2 ; kauh fny Y; k v f/ Ad k j ku d kj R; k p h I o k i q s l ek l r d j k o h v l s B j Y; ke G s R; ku d kj fu; Q r h i k f/ Ad k j h ; kauh dk; Z k g h d j . ; k l k B h d G f o . ; kr v k y s v k g s

; k ckr uš fxđ U; k; kps i ky u dj.; kP; k í "Vhus i kf/Adj .Akps i = dē vk&3@3051]  
 fnukad 20@06@2016 vUo; s Jh ch-, e-'AGds ekst .Ankj ; kauk foHAKxkekQr- dkj .As nk [Aok  
 uk/hl nōu R; kpk [Ayk l k l knj dj.; kckcr dGfo.; kr vkysgkrs Jh-ch-, e-'AGds ekst .Ankj  
 ; kpsdMu i klr fuonukpk fopkj d: u ftYgkf/Adjkh rFAk v/; {A ftYgk pkfj=; i MrkG.Ah l ferh  
 ¼c½ i jHA.Ah ; kauh f'AOkj l dš; k i æk.As Jh-ch-, e-'AGds ekst .Ankj ; kph l ok ; k vkns AKUo; s  
 l eklr dj.; kr ; r vkgs"

14. From the aforesaid observations, it cannot be said that the competent authority has not applied its mind.

15. It seems from the impugned order dated 20.7.2016 (Annexure A-10) that before terminating the services of the applicant, a show cause notice was issued to him and the applicant was given an opportunity to submit his case. The applicant was, therefore, heard by the competent authority before the impugned order was passed.

16. The learned P.O. has invited our attention to the appointment order of the applicant which is at Annexure A-1 dated 9.1.2015. The said appointment order is subject to some conditions mentioned in the order. Condition No.9 shows that the character verification of the candidate will be completed within six months from the date of appointment. As already stated, the attestation form clearly shows that furnishing of false information or suppression of any factual information in the attestation form would be a

disqualification and is likely to render the candidate unfit for employment under the Government. It, therefore, cannot be said that the applicant was not knowing these things.

17. So far as the constitution of a Committee is concerned, the Government has issued a G.R. dated 26.8.2014 as regards constitution of a Committee for character verification. We have perused the said G.R. The said G.R. issued only guidelines for constituting a Committee and also as regards the procedure for conducting an enquiry and as regards character verification. We do not find any illegality in the enquiry conducted by the respondent authorities regarding character verification of the applicant.

18. Shri A.S. Deshmukh, the learned counsel for the applicant also invited our attention to Schedule-A and B of the G.R. dated 26.8.2014 and submits that this schedule clearly gives guidelines as to when and under what circumstances the appointment order shall or shall not be issued. The learned counsel for the applicant submits that since no criminal case was pending against the applicant nor he was convicted in any case, the appointment order should not have been cancelled. It is material to note that the applicant's services have been terminated, as he has

submitted false information and concealed true facts from the competent authority while filling in the attestation form. There is ample evidence on record to show that the applicant deliberately did not disclose the information which was required to be disclosed while answering the Question Nos. 11-A, B & C and by no way of imagination, such information can be said to be suppressed inadvertently. On the contrary, it seems that the information might have been suppressed only with an intention to conceal true facts from the competent authority and in any case such action cannot be said to be inadvertent. We, therefore, do not find any illegality in the impugned order of termination of the applicant. Hence, we proceed to pass the following order:-

**ORDER**

The Original Application stands dismissed with no order as to costs.

(P.N. Dixit)  
Member (A)

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

