

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 631 /2014 (S.B.)**

Shri Ramrao S/o Narayanrao Jadhav,  
Aged about 57 years,  
Occupation – Service,  
R/o Karanja, Tahsil- Karanja,  
District -Washim.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Revenue Department, Mantralaya,  
Mumbai – 400 032.
- 2) The Deputy Director,  
Land Records, Amravati Division,  
Camp Road, Amravati.
- 3) The Superintendent of Land,  
Records, Washim.

**Respondents**

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**Shri S.P.Kshirsagar, Id. Advocate for the applicant.**

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

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

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**JUDGMENT**

**(Delivered on this 17<sup>th</sup> day of November, 2017)**

Shri S.D.Patil holding for Shri S.P.Kshirsagar, learned counsel for the applicant and Shri M.I.Khan, the learned P.O. for the respondents.

2. The applicant is serving in the department of respondent no. 2 i.e. The Deputy Director, Land Records, Amravati and was posted under respondent no. 3 i.e. The Superintendent of Land Records, Washim. The service record of the applicant is unblemished. Measurement by Shri Vikram Vasanttrao Dhawale, Land Surveyor, survey No. 7/2, Mouza-Godeshwar, Tahsil and District Washim was to be made. One Shri Borkar and Shri Garad were appointed for measuring land Khasra No. 7/1, 7/2 and 7/2B. They completed the measurement in presence of Vikram Dhawale and the Deputy Superintendent of Land Records, Washim was pleased to pass an order on 05/07/2011. Shri Vikram Dhawale raised an objection. Again as per the direction of Deputy Superintendent of Land Record, Washim vide order dated 09/07/2012, One Shri Dabhalkar and the applicant were directed to measure Land Survey No. 7/2. Shri Dabhalkar measured the land and applicant also visited the site at that time. Shri Vikram Dhawale could not show the boundary mark as there was a consideration in the Land and hence the measurement was obstructed.

3. On 07/05/2013, the respondent no. 3 issued one letter to the applicant proposing action against him under Rule 10 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 and it is stated in the letter that the applicant has not completed the work with the assistance of Shri Dabhalkar. It is also stated that the applicant has not shown boundaries to the complainant Shri Vikram Dhawale and, therefore, the applicant avoided the job, which amounts to malign the image of the office and it amounts to breach of Rule 3 (1) to 3 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. It is also stated that the applicant was appointed as a Court Commissioner by the Additional Collector, Washim for redressal of grievance of Shri Dhawale and he was to assist Shri Dabhalkar. However, he did not assist Shri Dabhalkar.

4. The applicant submitted his statement of defence. The report of the enquiry was also not given to the applicant. The applicant got show cause notice as regards punishment on 03/07/2013. Vide order dated 25/07/2013, the District Superintendent of Land Record, Washim ordered to put down the applicant in minimum pay-scale at the fag end of the service and the same also remained effective till the retirement of the applicant.

5. Being aggrieved by the order of District Superintendent, Land Record, Washim, the applicant preferred an appeal to the Deputy

Director of Land Record, Amravati Division but his appeal was rejected on 21/05/2014 without application of mind and, therefore, this O.A.

6. The applicant has claimed that the order dated 21/05/2014 (Annexure-A-1) passed by non applicant no. 2, i.e. Deputy Director of Land Records, Amravati Division, Amravati be quashed and set aside.

7. The respondent nos. 2 & 3 tried to justify the order passed against the applicant and it is stated that the applicant was appointed to measure the land of the complainant. But he failed to assist Shri Dhabalkar in the measurement of that land and thereby, despite the order of his superior, he did not perform his duty properly. It is stated that the impugned order was passed after giving full opportunity to the applicant and the competent authority had considered the detailed reply given by the applicant in the departmental enquiry. The respondent no. 2 was not satisfied with the reply given by the applicant and, therefore, he was properly punished.

8. The Id. counsel for the applicant submits that major penalty has been imposed on the applicant at the fag end of the service and this may affect the pensionary benefit to be given to the applicant. No witness was examined in the enquiry and no opportunity was given to the applicant to cross examine any witness.

9. The Id. counsel for the applicant submits that the applicant was aged about 57 years at the time of punishment imposed on him and

was to retire within 1½ years and, therefore, imposing the punishment of reduction of pay in the lowest rank may hamper his pensionary benefits.

10. The punishment imposed by the respondent no. 3, i.e. Superintendent of Land Records, Washim is as under:-

वकनसA-Jh vkj-, u-tk/Ao fuerkunkj ; kauk e-uk-l s¼f'ALr o vihy½ 1979 e/Ahy fu; e 5¼l gk½ e/Ahy rjrmhi ek.Asfu; r oruJsAhrhy U; ure orukoj fnukad 01-07-2013 rs 31-07-2015 ; k dkkyko/Ahdjhrk HAfo"; koj i fj .Akedkjd jkgwu vk.A. ; kph f' A{Ak i kjhr dj .; kr ; r vkgs

11. The applicant has, therefore, been punished whereby his pay scale has been reduced to minimum pay during the period from 01/07/2013 to 31/07/2015 with future effect. This would have definitely affected the pensionary benefits being paid to the applicant on retirement.

12. From the records, it seems that no witness was examined by the enquiry officer and, therefore, there was no question of giving opportunity to the applicant to cross examine any witness.

13. The Id. P.O. invited my attention to the procedure to be adopted for imposing minor penalties. As per 5 (1) (vi) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979, Which reads as under:-

Penalties-(1)Without prejudice to the provisions of any law for the time being in force, the following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Government servant, namely:-

*Minor penalties-*

- (i)
  - (ii)
  - (iii)
  - (iv)
  - (v)
  - (vi) reduction to a lower time-scale of pay, grade, post or service for a period to be satisfied in the order of penalty, which shall be a bar to the promotion of the Government servant during such specified period to the time-scale of pay, grade, post or service from which he was reduced, with direction as to whether or not, on promotion on the expiry of the said specified period:-
    - (a) the period of reduction to time-scale of pay, grade, post or service shall operate to future increments of his pay, and if so, to what extent; and,
    - (b) the Government servant shall regain his original seniority in the higher time-scale of pay, grade, post or service.
- Major penalties-*
- (vii) compulsory retirement;
  - (viii) removal from service which shall not be a disqualification for further employment under Government;

He submits that the respondent authorities have adopted the procedure as per Rule 10, as it was not satisfied with the reply given by the applicant. Rule 10 (2) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 however makes it crystal clear that if withholding increments is likely to affect adversely to the pension payable, procedure under Rule 8 (3) to (27) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 has to be followed. Rule 10 (2) reads as under:-

Notwithstanding anything contained in Clause (b) of sub-rule (1), if in a case it is proposed, after considering the representation, if any, made by the Government servant under Clause (a) of that sub-rule, to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the Government servant or to withhold increment of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, {the words or to impose any of the penalties specified in clauses (v) and (vi) of sub-rule (1) of the Rule 5} an inquiry shall be held in the manner laid down in sub-rules (3) to (27) of Rule 8, before making any order of imposing on the Government servant any such penalty.

In the present case it is case of the applicant that one Shri Dabhalkar was directed to measure land Survey No. 7/2 of Mouza-Godshwar and the applicant was to assist Shri Dabhalkar. The applicant has placed on record one order issued by Deputy Superintendent of Land Record, Washim, dated 09/07/2012 which shows that Shri Dabhalkar was to measure the Land. Admittedly, the work of measurement was, entrusted to Shri Dabhalkar the applicant was only to assist him to show boundary marks. The applicant has given explanation that he was unable to show boundary marks, since there was a construction made on the disputed land. This explanation has not been considered with a proper perspective. Considering the fact that the punishment imposed might affect the pensionary benefits to be given to the applicant, the competent authority ought to have conducted the enquiry as per the provisions of Rule 10 (2) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. The appellate authority did not consider this provision and straight way confirmed the order passed by District Superintendent of

Land Record, Washim. Considering all these aspects, in my opinion, the respondent authority ought to have conducted the enquiry as per provisions of Rule 10 (2) r/w Rule 8 (3) to (27) of Maharashtra Civil Services (Disciplinary & Appeal) Rules, 1979 r/w Rule 8 (3) to (27) and ought to have given full opportunity to the applicant to submit his defence. The competent authority ought to have examined the complainant and other witness to prove that the applicant refused to assist Shri Dabhalkar and that he was negligent or disobeyed the order of his superior. I, am, therefore satisfied with the order passed in disciplinary action by the District Superintendent of Land Record, Washim on 25/07/2013, which has been confirmed by the appellate authority i.e. respondent no. 2 on 21/05/2014 is not legal and proper and hence the following order:-

**ORDER**

1. The impugned order of punishment passed by District Superintendent of Land Record, Washim dated 25/07/2013 in disciplinary proceedings No. SR/2013, Washim dated 07/05/2013 which has been confirmed by the respondent no. 2 in the appeal vide order dated 21/05/2014, stands quashed and set aside.
2. No order as to costs.



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

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