

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR**

**CIVIL APPLICATION NO.325/2017**

**AND**

**ORIGINAL APPLICATION NO.642/2016.**

**(S.B.)**

Rameshwar Bapurao Mainde,  
Aged about 44 years,  
R/o Morshi, Distt. Amravati.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Revenue & Forests,  
Mantralaya, Mumbai-32.
2. The Divisional Commissioner,  
Amravati.
3. The Collector,  
Amravati.
4. The Tehsildar, Morshi,  
Distt. Amravati.

**Respondents**

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Shri M.V. Mohokar, the Ld. Advocate for the applicant.  
Shri S.A. Sainis, the Ld. P.O. for the respondents.

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

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**ORAL ORDER**

(Passed on this 4<sup>th</sup> day of December 2018.)

Heard Shri M.V. Mohokar, the Ld. counsel for the applicant and Shri S.A. Sainis, the learned P.O. for the respondents.

2. It is the contention of the applicant that he was appointed in service as Talathi in 1993 and in the year 2001 he was promoted as Revenue Circle Officer. In the month of January 2014, the applicant was serving at Morshi, District Amravati. On 24.1.2014, respondent No.4 issued a show cause notice to the applicant alleging that the applicant committed so many irregularities and illegalities while discharging his official duties. Respondent No.2 called upon the applicant to submit his reply to the show cause notice within a period of one hour. It is submitted that on 29.1.2014, the respondent No.4 passed the order vide Annexure A-1 and directed to withhold two increments of the applicant permanently.

3. It is the contention of the applicant that the Sub-Divisional Officer was the competent authority and the disciplinary authority and the Tehsildar (R.4) had no power to issue a show cause notice and award punishment to the applicant. Second contention is that without holding an enquiry as contemplated under

Rule 8 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (in short "D & A Rules"), respondent No.4 awarded major punishment which is arbitrary, illegal and this order cannot be justified. On the basis of two counts, it is submitted that the impugned order passed by respondent No.4 directing to withhold two annual increments of the applicant permanently, be quashed and set aside and consequential reliefs be granted.

4. Respondent No.3 has submitted reply. It is contention of respondent No.3 that the appeal was preferred by the applicant before the Collector, Amravati and the Collector, Amravati revised the order passed by respondent No.4 Tehsildar, Morshi and reduced the punishment. Respondent No.3 has tried to justify the order alleging that the behaviour of the applicant was not suitable, he committed irregularities while discharging his duties and, therefore, respondent No.3 submitted that the punishment is rightly awarded and there is no substance in the application.

5. After hearing the submission of both sides and after perusing the show cause notice dated 24.1.2014, it seems that respondent No.4 illegally exercised the jurisdiction. The learned P.O. has accepted that the Tehsildar was not the disciplinary authority, but the Sub-Divisional Officer was the disciplinary authority and,

therefore, respondent No.4 i.e. the Tehsildar, Morshi had no authority of law to issue a show cause notice dated 24.1.2014 and to call upon the applicant to explain. After reading the show cause notice which is at Annexure A-4, it seems that respondent No.4 directed the applicant to submit his explanation to the show cause notice within a period of one hour and on failure, there was a threat to initiate proceedings under Rule 3 (2) of the M.C.S. (Conduct) Rules, 1979. In this background, I am compelled to say that action initiated by respondent No.4 was in utter disregard of law, it is unwarranted and illegal.

6. Once it is accepted that respondent No.4 had no authority in law to issue a show cause notice as he was not the disciplinary authority, the consequence is that, punishment awarded by respondent No.4 vide Annexure A-1 is absolutely illegal and cannot be sustained.

7. Even after perusing the reply submitted by respondent No.3, it appears that no opportunity of hearing was given to the applicant. Inquiry Officer was not appointed and the enquiry was not conducted as contemplated under Rule 8 of the D & A Rules, 1979.

8. No doubt, matter was heard in appeal by the Collector, Amravati and he reduced the punishment, but fact remains that even the Collector, Amravati has justified illegal action initiated by respondent No.4, therefore, it has got no meaning in law. In view of discussion, I am compelled to say that the exercise of authority by respondent No.4 and awarding punishment to the applicant by withholding two annual increments permanently is illegality, it cannot be justified and it requires to be quashed. In this case, the order passed by the Tehsildar, Morshi and modified by Collector, Amravati are continuous in force and, therefore, cause of action is continuous, hence, delay is condoned.

9. In the result, I pass the following order:-

**ORDER**

- (i) O.A. No. 642/2016 stands allowed.
- (ii) Application for condonation of delay is also allowed.
- (iii) The impugned order dated 29.1.2014 passed by Tehsildar, Morshi and the order dated 19.11.2014 passed by Collector, Amravati are hereby set aside.

- (iv) Withheld annual increments of the applicant be released forthwith together with arrears.
- (v) No order as to costs.

(A.D.Karanjkar)  
Member(J)

Dt. 4.12.2018.

pdg.