

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.854/2018. (S.B.)

Niranjan Shamrao Kadam,
Aged about 58 years,
Occ-Service as Shift Manager,
(Now holding the charge of Dairy Manager),
Class-II, Govt. Milk Scheme, Akola.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Agriculture, Animal Husbandry,
Dairy Development and Fisheries,
Mantralaya, Mumbai-32.
2. The Dairy Development Commissioner,
Administrative Building,
Sir Abdul Gaffar Marg, Worli Sea Face,
Mumbai-18.
3. The Regional Dairy Development Officer,
Congress Nagar, Amravati.

Respondents

Shri N.R. Saboo, the Ld. Advocate for the applicant.
Shri A.M. Khadatkar, the Ld. P.O. for the respondents.

Coram:-Shri J.D. Kulkarni,
Vice-Chairman (J)

ORAL ORDER

(Passed on this 28th day of November 2018.)

Heard Shri N.R. Saboo, the Ld. counsel for the applicant and Shri A.M. Khadatkhar, the learned P.O. for the respondents.

2. The applicant who is a Shift Manager, also holding the additional charge of the post of Dairy Manager at Akola. It is alleged that he has committed some irregularities which amounts to grave misconduct while performing his additional duty and, therefore, vide order dated 12.10.2018 (A-1), the applicant has been kept under suspension.

3. The Ld. counsel for the applicant submits that the applicant is going to retire on superannuation on 30.11.2018 and, therefore, his suspension was not at all necessary. It is further stated that the additional charge of the applicant has already been withdrawn and, therefore, there was no question of applicant's interfering in any proposed departmental enquiry. Specific queries were made vide order dated 26.11.2018 and the Ld. P.O. was directed to take instructions on the following points:-

“(i) Whether suspension of the applicant is required, since the applicant is going to retire on superannuation on 30.11.2018 ?

(ii) Whether the department has sought for continuation of the applicant till finalization of enquiry ?

(iii) Whether the respondents have sought permission to initiate departmental enquiry even after retirement of the applicant ?

4. The learned P.O. has filed reply affidavit on behalf of respondent No.2 in order to reply these queries on 27.11.2018. But the said affidavit was vague and query was not sufficient. Therefore, the respondent Nos. 2 and 3 were directed to answer the queries specifically by filing an affidavit. Accordingly the respondent No.2 has filed an affidavit. Even the said affidavit seems to be somewhat vague. It was asked to answer as to whether the suspension of the applicant was required, since he was going to retire on superannuation on 30.11.2018. This query is answered vaguely, saying that there was a news in national television which defamed the department and, therefore, the enquiry was to be initiated. As regards continuation of the applicant till finalisation of enquiry, it is answered that there was no question of seeking any such continuation. As regards the query as to whether the respondents have sought permission to initiate the departmental enquiry against the applicant, it is stated that the departmental

enquiry has already initiated i.e. the date on which the order of his suspension was issued.

5. From the record and the submission made, it is clear that till today, no charge-sheet has been served on the applicant and there is no likelihood of charge-sheet being served on him till his date of superannuation i.e. day after tomorrow. Since the applicant has already been relieved from the additional charge, for which he was suspended, continuation of suspension will nothing, but adding the complications.

6. The learned counsel for the applicant submits that the respondent No.3 intimated about the news of national television to the respondent No.2 vide communication dated 9.10.2018, a copy of which is at page Nos. 50 & 51. Through the said communication, the Commissioner of Dairy Development, Mumbai was requested to issue guidelines as regards initiation of departmental enquiry, however, there was no proposal to keep the applicant under suspension. In spite of such communication, the respondent No.2 issued suspension order three days thereafter. The said order, therefore, seems to be without application of mind. The respondent No.2 has not considered as to whether suspension of the applicant

was necessary for further enquiry. Considering all these facts and in view of the fact that the applicant is going to retire on superannuation on 30.11.2018, suspension order dated 12.10.2018 shall stand quashed and set aside. The respondents would be at liberty to initiate departmental enquiry against the applicant, if they find it fit as per the provisions of Rule 27 of the M.C.S. (Pension) Rules,1982. The O.A. stands disposed of accordingly.

7. Suspension order stands revoked with immediate effect, the applicant be allowed to join his duty immediately.

8. Steno copy be provided to the learned P.O.

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

Dt. 28.11.2018.

pdg.

