

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 964 / 2018 (S.B.)**

Rajhans S/o Vyankati Gawande,
Aged about 53 years, Occ. Service,
R/o Karla Chowk, Behind Swagat Colony,
Wardha (M.S.).

Applicant.

Versus

- 1) The State of Maharashtra,
Through it's Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
- 2) Commissioner, Tribal Development,
Maharashtra State, Nashik.

Respondents

Shri S.P.Palshikar, the Id. Advocate for the applicant.

Shri H.K.Pande, the Id. P.O. for the respondents.

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

JUDGMENT

Judgment is reserved on 26th November, 2020.

Judgment is pronounced on 03rd December, 2020.

Heard Shri S.P.Palshikar, Id. counsel for the applicant and Shri H.K.Pande, Id. P.O. for the respondents.

2. The applicant enters into service in August, 1985 as a Primary Teacher and was posted at Government Ashram School, Jamakudo in Deori. Than from time to time, he worked at various places in the same capacity. In 2011, he was transferred to Seloo in Navargaon Government Ashram School. Thereafter, he was promoted in December, 2014 as Graduate Teacher and was posted in Government Secondary Ashram School, Pandhurna Tq. Ashti, District Wardha. In January, 2015 he suffered

from heart attack and on his request he was sent on deputation to Navargaon Ashram School, Seloo, District Wardha. Thereafter, the same school was closed in August, 2015 and thereafter he was accommodated in another school i.e. Sindhi Bihari Tah. Karanja, where he was declared surplus and thereafter he was accommodated as a Graduate Teacher in Government Secondary Ashram School, Pandhurna, District Wardha, where he has joined on 19.01.2016. The applicant is working at Pandhura, Tq. Ashti, District:Wardha since 29.01.2016 and it is alleged that applicant was indulged in performing sexual torture upon a school girl and, therefore, the enquiry has to be initiated by order dated 30.04.2016. He was put under suspension. The enquiry was conducted and 14 charges were levelled against the applicant. The enquiry report has been placed on record by Id. P.O. by which it appears that Enquiry Officer has levelled two charges on column no. 10 at P.B., Pg. No. 36 which are mentioned below:-

10- नकसककक दः 1- व'यह्य दR; I क/नु बरु Hkx fl) gkrks

नकसककक दः 2- व'यह्य 'कन मPpkj .; kph ckc I क/नु fl) gkrks

3. Respondents have filed their reply to the original application, based on that they have reproduced the charges levelled against the applicant and subsequently they have issued punishment order vide order dated 02.11.2017 (Annexure-A-3, P.B., Pg. No. 25 to 27, both inclusive) by Additional Tribal Commissioner, Nagpur.; following two punishments were awarded :-

A. *Applicant's four increments have been stopped with permanent effect.*

B. *Applicant's suspension period has been treated as suspension period and he has been posted back to Government Ashram School, Jambia, Tq. Ettapalli, District: Gadchiroli.*

4. It has also been submitted by Id. counsel for the applicant that applicant has applied for V.R.S. and that it been accepted and he will stand as retired by way of V.R.S. from 30.11.2020. In order dated 26.10.2020 in para no. 3, it has been pointed out that the charges regarding drunken condition should be examined by Departmental Enquiry papers. However, it is not much important at this stage. In view of these documents related to the Departmental Enquiry were called for to get

examined by both the counsels; both the counsels have agreed on the concept that there is not much substance about the drunken condition.

5. Applicant has gone in appeal to Commissioner, Tribal Development, Nashik i.e. Respondent no. 2. The respondent no. 2 has passed order dated 21.05.2018 (Annexure-A-1, P.B., Pg. No. 16) and he has rejected the appeal and confirmed the order passed by Additional Tribal Commissioner dated 02.11.2017. Aggrieved with both these orders, applicant has approached to this Tribunal. I have heard both the sides and it appears that during Departmental Enquiry process all the procedures have been followed and applicant has been given full opportunity to defend himself. However, punishment to the applicant appears to be disproportionate to the alleged charges proved by the Enquiry Officer in Departmental Enquiry. In view of this situation, following orders:-

ORDER

1. O.A. is partly allowed.
2. Punishment awarded by the Additional Tribal Commissioner, Nagpur on page 27 no. 1 is modified to the extent that only two increments will be stopped with permanent effect.
3. No changes is done in punishment no. 2 i.e. suspension period treated as per punishment order dated 02.11.2017 will remain as suspension period.
4. No order as to costs.

(Shri Shree Bhagwan)
Vice Chairman

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

Name of Steno : Akhilesh Parasnath Srivastava.
Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 03/12/2020.
and pronounced on

Uploaded on : 04/12/2020.