

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD.**

**ORIGINAL APPLICATION NO. 23 OF 2014**

**DIST.: PARBHANI**

Shri Syed Tilavat Hussain Quadri,  
Age : 69 Years., Occu: Pensioner,  
R/o Galibnagar, Dargah Road,  
Parbhani.

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**APPLICANT**

**VERSUS**

1. The State of Maharashtra,  
Through its Secretary,  
Revenue and Forest Department,  
Mantralaya, Mumbai-32.
2. The Principal Chief Conservator of Forest,  
Nagpur, Maharashtra State.
3. The Chief Conservator of Forest,  
Aurangabad Division, Aurangabad.

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**RESPONDENTS**

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**APPEARANCE** : Shri V.B. Wagh, learned Advocate for  
the Applicant.

: Shri N.U. Yadav, Learned Presenting  
Officer for Respondents.

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**CORAM:HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN (A)**  
**AND**  
**HON'BLE SHRI B.P. PATIL, MEMBER (J)**

**DATE : 18.08.2017.**

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**ORDER****[Per- Hon'ble Shri B.P. Patil, Member (J)]**

1. The applicant has challenged the impugned order dated 03.08.2013, passed by the Hon'ble Minister for Revenue, Government of Maharashtra, rejecting his appeal and confirming the order passed by the disciplinary authority and also challenged the order dated 25.09.2008 passed by the respondent No. 1 in the Departmental Enquiry initiated against him and imposing punishment to recover an amount of Rs. 197453/-, out of which an amount of Rs. 162792/- has to be recovered from the pensionary benefits/retiral benefits and rest of the amount of Rs. 33661/- has to recover from his pension in the installment of Rs. 200/- per month and also prayed to quash the said orders.

2. The applicant was initially appointed as a Range Forest Officer on 12.11.1968. He was promoted to the post of Assistant Conservator of Forest in the month of June 1999. He retired from the service w.e.f. 31.03.2002. He

rendered the qualifying service of 33 years 4 months and 19 days.

3. It is contention of the applicant that in the year 1996, he was working as a Range Forest Officer (Mass Afforestation Programme, Parbhani). He was allotted the work of Mass Afforestation programme during the period from 1.10.1996 to 16.07.1999 under the scheme "Jawahar Rozgar Yojana". The respondent No. 2 conducted inspection of the work and noted some irregularities in the implementation of the "Jawahar Rozgar Scheme" by the applicant. He submitted his report on 21.03.2001 and proposed an enquiry against the applicant. On the basis of the report, a Departmental Enquiry has been initiated against the applicant. The memorandum of charge was served on him leveling four charges against him. It was alleged that during 1.10.1996 to 16.7.1999, the applicant had done improper technical work in connection with the grant received from the District Development System, Parbhani under Jawahar Rojgar Scheme. It is further alleged that excessive expenses than the sanctioned

estimated expenditure had been incurred and the applicant recorded the excessive work than that of the actual work done and made entries in that regard in the measurement book. It is alleged that he had temporarily misappropriated amount of Rs. 82000/- by showing that the same had been utilized for purchasing construction material. It is further alleged that he fixed high rate of work and showed that amount of Rs. 170051/- has been incurred on the work without doing the work. It is further alleged that he misappropriated the amount of Rs. 27402/- by showing that the work was completed but in fact, the work was not actually done. The applicant demolished the old building without obtaining permission from the higher authority and in violation of the Government Rules.

4. The applicant has submitted his defence statement to the charges leveled against him, but the same had not been considered by the Disciplinary Authority and the charges had been framed against him. The enquiry has been conducted by the Enquiry Officer. It is contention of the applicant that he demanded documents i.e. copies of the cashbook and measurement book, but those

documents were not supplied to him. It is his contention that those documents were material for making foundation of his defence. It is his contention that the Enquiry Officer completed the enquiry without following principles of natural justice. On conclusion of enquiry, the Enquiry Officer submitted the report to the Disciplinary Authority. The copy of the Enquiry Report was submitted to him on 18.06.2004. He had given reply to the said report on 19.08.2004 and contended that the charges were not proved against him, but the enquiry Officer had wrongly recorded findings in that regard. It is his contention that he was not responsible for the misappropriation and wrong measurement of the work.

5. It is his contention that as per hierarchy in the Forest Department, the Forest Guard has to implement scheme through labourers. He has to maintain the muster roll of the labourers and prepare vouchers after making payment of wages to the labourers. Then the Forester has to check the work done and forward the vouchers to the R.F.O. The R.F.O. verifies the payment vouchers and inspection notes, measurement etc. If no negligence

noticed in the work, then the payment used to be disbursed to the labourers in front of Guard Forestor, reliable authorities i.e. the Sarpanch, Gramsevak etc. After making payment vouchers used to be submitted to the ACF (Assistant Conservator of Forest) for verification. After verification of the same, ACF used to forward the vouchers to the DCF. It is his contention that his role as RFO is limited in the entire process. The vouchers submitted by him were not disallowed by the DCF and therefore, he was not responsible for the alleged charges. But the Enquiry Officer had not considered the said aspect and submitted his report to the Disciplinary Authority. On the basis of report of the Enquiry Officer, the Disciplinary Authority passed the impugned order dated 25.09.2008 and imposed the punishment of recovery of an amount of Rs. 197453/-. Out of the said amount, the amount of Rs. 162792/- is to be recovered from his retirement benefits and balance amount of Rs. 33661/- has to be recovered from his pension by monthly installment of Rs. 200/-. It is also ordered that an amount of Rs. 200/- per month has to be deducted from his pension permanently.

6. The applicant has challenged the said order by preferring appeal before His Excellency, Governor of Maharashtra on 19.11.2008. The said appeal came to be decided by the Minister for Revenue Department on 3.8.2013 and he dismissed the appeal and maintained the order passed by the Disciplinary Authority.

7. It is contention of the applicant that the Enquiry Officer, Disciplinary Authority as well as Appellate Authority had not scrutinized the evidence on record properly. They have not considered the fact that the applicant was not responsible for any irregularity in making payment or doing the work and they have arrived at wrong conclusion. It is his contention that the respondents had not considered his defence and role attributed to him in the work and therefore, they came to wrong conclusion. It is his further contention that the principles of natural justice have not been followed by the Enquiry Officer, while conducting the enquiry. It is his contention that he was responsible for 10% inspection and the Forester and Forest Gourd were responsible for rest of the work, but no one of them has been held guilty for the

said irregularities in the work. He has been held guilty for the reasons best known to the respondents. It is his contention that none of the charges leveled against him has been proved, but the respondents with mala-fide intention held him guilty and passed the impugned order imposing punishment against him. Therefore, he prayed to quash and set aside the impugned order dated 3.8.2013 passed by the Minister, Revenue, Maharashtra State and the order passed by the respondent no. 1 on 25.08.2008 and prayed to exonerate him from the charges leveled against him.

8. The respondent No. 1 has filed an affidavit in reply and denied the contentions raised by the applicant. It is his contention that the applicant had been held responsible for irregularities in the work and for incurring excessive expenditure without prior sanction of higher authority. It is his contention that a committee appointed for inspection of work had done spot inspection of the work and found several deficiencies and irregularities in the work. The work carried out were found improper. They

found that the works done by the applicant were not as per the sanctioned estimate. The applicant had done excess work than sanctioned estimate without prior permission of the competent authority which is against the public policy. It is his contention that as per the record of the Sukli plantation in F.S. No. 170, beat Sukli, Range Parbhani (MAP), the estimated cost of CCT was Rs. 13524/-, but the expenditure of Rs. 27196/- was shown to be incurred for the said work. So also the CCT works of Shirad Shahapur in F.S. No. 290(part)9 (part) Range Parbhani (MAP) is concerned, the estimated cost was Rs. 16906/-, but the expenditure was shown of Rs. 19287/-. The applicant had incurred excess expenditure for the said work in the tune of Rs. 16053/-. It is his further contention that the estimated cost for inspection work was Rs. 2055/-, but the expenditure of Rs. 4544/- has been shown. These facts show that the applicant had incurred excess expenditure in the tune of Rs. 18942/-. He has not denied the said fact. Therefore, Enquiry Officer held him guilty of the said charge. It is his contention that the applicant had recorded measurements of excess work than the actual

work carried out and this fact has been noted during the inspection made by the committee on 22.09.1999 and 27.09.1999. The Enquiry Officer considered the said aspects and held the applicant guilty of the said charge.

9. It is further contention of the respondent that the Conservator of Forests, Aurangabad by letter dated 28.05.1998, directed the applicant to submit detailed information about purchase of construction material and submit stock register, register regarding entries of material used and details of construction material used. After receipt of above letter, the applicant has submitted his report and on considering the report, it was found that the applicant has purchased extra construction material for which he spend Rs. 80000/- in excess. The explanation of the applicant has been called, but he had not given satisfactory explanation in that regard. It is further contention of the respondent that the applicant has applied higher rates than the actual rates for construction items. The said works had been inspected by the Deputy Conservator of Forest, Parbhani and he noted grave

irregularities in the construction, due to which the excess expenditure of the Government money amounting to Rs. 170051/- had been made. The applicant has not explained the said fact satisfactorily. The applicant has spent excess expenditure of Government money amounting to Rs. 27402/- without doing work as per sanctioned building plan. It is their contention that the applicant had got constructed one additional room without prior permission of the competent authority and incurred expenditure for it.

10. It is further contention of the respondent that the applicant had allowed to demolish old building without prior approval or permission of competent authority and violated the Government Rules and regulations. It is his contention that the said fact has been established by the Disciplinary Authority by adducing corroborative evidence in the Departmental Enquiry. Therefore, Enquiry Officer submitted his report to the Disciplinary Authority holding the applicant guilty. The report was accepted by the Disciplinary Authority. Accordingly, the applicant was punished by impugned order.

11. It is further contention of the respondent that the applicant found guilty of misconduct and considering the nature and severity of the charges penalty has been imposed against him. It is his contention that the appeal preferred by the applicant to the Hon'ble Governor of Maharashtra has been sent to Revenue Minister for decision. Accordingly, he decided the appeal on 3.8.2013 and dismissed the same. It is his contention that the proper opportunity was given to the applicant to defend himself and there was no violation of the principles of natural justice. It is his contention that there is no illegality in the impugned orders. Therefore, he prayed to reject the present O.A.

12. We have heard Shri V.B. Wagh, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents. We have perused the application, affidavit in reply and various documents placed on record by both the parties.

13. Admittedly, the applicant has joined services of the respondent as Range Forest Officer on 12.11.1968.

Thereafter, he was promoted on the post of Assistant Conservator of Forest in the month of June, 1999. It is not much disputed that the applicant was working on the post of Range Forest Officer (Mass Afforestation Programme, Parbhani) under the office of Deputy Conservator of Forest, Parbhani during the period from 1.10.1996 to 16.07.1999. It is not much disputed that the several work under "Jawahar Rozgar Yojana" had been done in the Forest Division during that period. Admittedly, the work has been inspected by the higher authority of the applicant and during the inspection, several irregularities found in the work. It has been noticed by the inspection team that excess expenditure has been incurred on the work than the sanctioned/estimated expenditure/cost. The charge sheet has been issued to the applicant, mentioning the charges leveled against him. After considering his statement of defence and evidence of witnesses adduced on behalf of the disciplinary authority, the Enquiry Officer submitted his report to the Disciplinary Authority. The Disciplinary Authority considered the report of the Enquiry Officer and passed the impugned order dated 25.09.2008, imposing

punishment against the applicant. Admittedly, the applicant preferred an appeal before His Excellency Governor of Maharashtra, challenging the said order. The said appeal came to be decided by the Minister of Revenue, Maharashtra State on 3.8.2013 and he dismissed the appeal.

14. Learned Advocate for the applicant has submitted that the applicant was working as a Range Forest Officer at Parbhani (Mass Afforestation programme) from 1.10.1996 to 16.07.1999 and at that time, the scheme under "Jawahar Rozgar Yojana" has been implemented. The work of Mass Afforestation Programme had been implemented. He has argued that it is duty of the Forest Guard to implement the scheme through labourers and he has to prepare the muster roll of the labourers and then submit it to the Forestor. The Forestor has to verify the work and after checking 100% work, he has to submit the vouchers for payment to R.F.O. The R.F.O. has to check 10% work and then to forward the vouchers to the A.C.F. The A.C.F. has to verify 5% of the

work and then submit his report to the D.C.F. He has argued that the D.C.F., then has to verify the documents submitted to him and then to pass the bill. He has submitted that in the entire process, the role of R.C.F. is very limited. He has argued that the applicant had checked the work, verified the vouchers, inspection notes and measurements of work and forwarded the same to A.C.F. He has submitted that the vouchers verified by the applicant had been approved by the D.C.F. and not a single voucher was disallowed. Therefore, there was no negligence on the part of the applicant in discharging the duty. He has submitted that the inspection work regarding plantation made in the Forest had been completed within a two days. He has submitted that it was not possible to make inspection of all the sites within a short spell of two days. He explained the said fact before the Enquiry Officer, but the Enquiry Officer had not considered the said aspect. He has further submitted that the Enquiry Officer had not considered the defence of the applicant and he has arrived at wrong conclusion that the applicant was guilty of charges leveled against him. He has submitted that the

material documents, which were necessary for his defence were not supplied to the applicant. Not only this, but, the principles of natural justice were not followed by the Enquiry Officer and therefore, the order passed on 25.09.2008 by the respondent No. 1 on the basis of the Report of the Enquiry Officer is not legal one. He has submitted that the punishment imposed on the applicant is highly disproportionate and harsh, considering the charges leveled against him. He has submitted that the appellate authority has also not considered the said aspect and wrongly dismissed the appeal. Therefore, he prayed to allow the Original Application and to quash and set aside the impugned order dated 25.09.2008 and 3.8.2013 and to exonerate the applicant from the charges leveled against him in the Departmental Enquiry.

15. Learned Presenting Officer has submitted that proper opportunity was given to the applicant to defend himself at each and every stage of the enquiry proceedings. He has argued that inspection committee visited various sites and made inspection of the works and found that the

applicant had shown more area of the work done than the actual work done by him by preparing false record showing false measurements. He has submitted that the Disciplinary Authority has established the fact that the applicant had misappropriated the Government money. He has further argued that the Disciplinary Authority has established the fact that the applicant had shown excess amount of expenditure for purchase of excess building material, but when he was directed to produce the material, he deposited the amount of building material shown to be purchased. He has further argued that the applicant had demolished the building without prior approval of the higher authority. Not only this, he got constructed an additional room without getting approval/sanction from the superior authorities and spent excess amount for the said construction. He has argued that all these charges have been proved by the Disciplinary Authority and therefore, Enquiry Officer has rightly held the accused guilty of the misconduct. He has submitted that the Enquiry Officer had recorded reasons while arriving at a conclusion and therefore, there is no illegality

in the enquiry, as well as, impugned order passed by Enquiry Officer on 25.09.2008. He has submitted that the appellate authority has considered the evidence on record and rightly upheld the order passed by the Disciplinary Authority regarding punishment imposed on the applicant and thereby dismissed the appeal. He has submitted that there is no illegality in the impugned orders and therefore, he prayed to reject the O.A. He has further submitted that the punishment imposed on the applicant is not disproportionate, considering the grave nature of the charges leveled against him and therefore, he supported the order of the Disciplinary Authority and Appellate Authority.

16. We have gone through the documents on record. On perusal of it, it reveals that the several charges of misconduct were leveled against the applicant. The inspection committee had inspected the work done by the applicant and found deficiencies and irregularities in the work. They noticed that the work was not done in accordance with the sanctioned plan and estimate. The

applicant had done excess work than the actual sanctioned work without obtaining prior approval of the higher authority, which is illegal. Evidence of the Disciplinary Authority establishes that the applicant made plantation in the lands, which were not feasible. Not only this, but the evidence on record establishes that he had done work in 110 Hectors land at village Shirad Shahapur, though the sanctioned work was for 50 Hectors only. Likewise, he had also done work at village Sukali. The sanction was for 40 Hectors only, but he had done work in 58 Hectors. The documents on record establish the charges leveled against him and therefore, the Enquiry Officer found him guilty of the said charges.

17. It has been established by the Disciplinary Authority that the applicant has not done work as per the sanctioned plan and estimate at village Sukali and Shirad Shahapur. Disciplinary Authority had established the fact that he has made false entries in the Cashbook and measurement book and therefore, Enquiry Officer has held that the said charge has been proved against the applicant.

18. It is alleged that the applicant had prepared record showing that he had done excess work than the actual work and maintained the measurement book accordingly. The spot inspection has been conducted by the Inspection Committee in that regard. They had noticed that the excess work has been done by the applicant spending excess amount of Rs. 142837/-. Said fact has been established by the witnesses as well as the documents on record. The applicant has failed to give satisfactory explanation in that regard. Therefore, Enquiry Officer rightly held him guilty of the said charge.

19. The Disciplinary Authority has adduced the evidence to show that the applicant purchased the construction material in excess than the required material and when he was directed to produce the excess material, he deposited the amount of Rs. 54000/- on 30.05.1998 and amount of Rs. 28000/- on 28.05.1998. Enquiry Officer had concluded that the applicant had not misappropriated the Government money as there was no evidence to establish that the applicant had

misappropriated the said amount. Therefore, he has recorded the finding accordingly.

20. It is one of the charges against the applicant that he had applied higher rate than the actual rate for the construction works and materials. Inspection has been carried out by the Divisional Forest Officer (Planning), Aurangabad and the Deputy Forest Engineer. They made inspection of the work done by the applicant and that time they found that the applicant spent Government funds for construction without making construction work. They noticed that there was huge difference in the rates and therefore, they submitted report stating that the applicant had incurred excess expenditure amounting to Rs. 170051/- by mentioning the high rates. They also found that the applicant changed the sanctioned plan of the construction and got constructed an additional room by spending excess Government money amounting to Rs. 27402/-.

21. Not only this, but the Disciplinary Authority adduced evidence to show that the applicant demolished

building at Choundi and Adgaon without obtaining prior permission of the competent authority in violation of the Government rules and regulations and spent Rs. 3000/- and 1400/- for those demolition. The said charge has been established against the applicant on the basis of the report submitted by the D.F.O. (Planning), Aurangabad and Deputy Forest Engineer and evidence of Shri Dongaonkar. The evidence of Disciplinary Authority has not been shaken during the cross examination conducted by the applicant. The Enquiry Officer considered the evidence adduced by the Disciplinary Authority and after scrutinizing the evidence and documents on record he has rightly held that the charges were proved against the applicant and accordingly, he submitted his report to the Disciplinary Authority.

22. The Disciplinary Authority served the copy of the report to the applicant. The applicant had given reply to the said report. On considering the report of Enquiry Officer and reply of the applicant, the Disciplinary Authority accepted the findings recorded by Enquiry Officer and then passed the impugned order dated 25.09.2008

imposing punishment against the applicant. Considering the grave nature of charges and huge financial loss caused to the Government because of the act of the applicant, the punishment imposed on the applicant seems to be proper and appropriate. Therefore, in our opinion it cannot be said to be disproportionate punishment.

23. The Appellate Authority has also considered the contention of the applicant, enquiry report and the punishment imposed against the applicant. It found no illegality in the order passed by the Disciplinary Authority. Consequently, it has dismissed the appeal on 3.8.2013.

24. We have gone through the report of the Enquiry Officer, evidence of the witnesses. On scrutinizing the same it reveals that there is ample evidence on record to show that the applicant made several irregularities while completing the works and implementing Government scheme like "Jawahar Rojgar Yojana", plantation of trees, construction work, purchase of material etc. He implemented the schemes at the places which were not feasible. He had done the work beyond the estimate

sanctioned by incurring more expenses and thereby spent Government money un-authorisely. He had made work on the more area of land than the sanctioned area by spending huge Government funds. Not only this, but evidence on record shows that actually the work was not done as per estimate. He prepared record and measurement showing that he had done work as per estimate, but in fact work on the lesser area had been done when the inspection committee inspected the sites and work places. There is ample evidence on record to establish that the applicant flouted rules and regulations and got additional construction work without approval of higher authority and thereby incurred Government funds without approval of superior authority. Evidence on record shows that the applicant incurred expenses for demolition of Government building without obtaining permission of the superior authority in violation of Government Rules. All these facts show that time and again the applicant flouted the rules and acted as per his whims. The said conduct of the applicant is not befitting to Government servant and it amounts misconduct. Because of the acts of the applicant,

huge financial loss has been caused to Government. The acts of the applicant are against the public policy. The said conduct of the applicant is unbecoming of Government servant.

Enquiry Officer has considered all these aspects and discussed the evidence in detail in his report. He has scrutinized the evidence properly. He has dealt with the defence of the applicant and recorded sound reasons for arriving at specific conclusion. We found no perversity, illegality in the reasons and finding recorded by him.

25. The Enquiry Officer, Disciplinary Authority as well as Appellate Authority had given proper opportunity of being heard to the applicant. They considered the evidence adduced on behalf of the Disciplinary Authority, defence of the applicant and held the applicant guilty of the charges leveled against him. Therefore, we do not find substance in the submissions advanced by the learned Advocate for the applicant that the principles of natural justice had not been followed by the Enquiry Officer, Disciplinary Authority and Appellate Authority.

26. We do not find illegality and irregularity in the impugned orders dated 25.09.2008 and 3.8.2013. Huge financial loss had been caused to the Government due to the acts of the applicant. He prepared false record showing that he made excess work than the sanctioned work. He made excess payment for the work done though it was less than the sanctioned work and therefore, huge loss has been caused to the Government. There were technical irregularities in the works done under the supervision of the applicant and therefore, the applicant was held responsible to it and accordingly, the punishment has been imposed against him. Considering the charges leveled against the applicant and its nature, in our view, the punishment imposed on the applicant is not disproportionate. Therefore, we do not find substance in the submissions advanced by the learned Advocate for the applicant in that regard. There is no illegality in the impugned orders dated 25.09.2008 and 3.8.2013 passed by the respondents. Therefore, no interference is called for in those orders. There is no merit in the present O.A. Consequently, it deserves to be dismissed.

27. In view of the above facts and circumstances, the Original Application stands dismissed with no order as to costs.

**MEMBER (J)**

**VICE CHAIRMAN (A)**

**Kpb**/DB OA No 23 of 2014 BPP 2017