

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 207 /2022 (D.B.)

Madhukar Ganpat Basale,
Aged about 63 years,
Occ. Retired Govt. Servant,
R/o Laxmi Nagar, Ring Road,
Warud, District Amravati.

Applicant.

Versus

- 1) State of Maharashtra,
Through its Secretary,
Department of Food,
Civil Supplies & Consumer Protection,
Mantralaya, Mumbai.
- 2) State of Maharashtra,
through its Secretary,
Department of Revenue and Forest,
Mantralaya, Mumbai-32.

Respondents

Shri R.V.Shiralkar, Id. Advocate for the applicant.

Shri S.A.Sainis, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri Shree Bhagwan, Vice-Chairman &
Hon'ble Shri M.A.Lovekar, Member (J).**

JUDGMENT

(Delivered on this 16th day of Nov., 2022)

(Per:-Vice Chairman)

Heard Shri R.V.Shiralkar, learned counsel for the applicant
and Shri S.A.Sainis, learned P.O. for the Respondents.

2. By the present original application, the applicant is challenging the action of respondent i.e. not releasing the gratuity and other retiral benefits on the ground that departmental inquiry is pending against him.

3. The applicant was appointed on the post of 'Peon' in the year 1982. Later on he was promoted as 'Junior Clerk' in 1991. Thereafter he was promoted as 'Senior Clerk' in the year 2007 and lastly promoted as 'Naib Tahsildar' in the year 2016. The applicant stood retired as 'Naib Tahsildar' at District Supply Office, Amravati on 31.07.2017 (A-1, Pg. No. 12).

4. It is the contention of the applicant that on 09.04.2013 a show cause notice came to be issued to him and others for alleged forging of ration cards under Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. In pursuance of the said notice on 25.04.2013 the applicant came to be suspended and a chargesheet dated 03.09.2014 was issued to the applicant and similarly placed other delinquents.

5. **Hon'ble Supreme Court in Union of India etc. Vs. K.V.Jankiraman etc. (1991) AIR 2010. 1991 SCR (3) 790.** It has held:-

"On the first question, viz, as to when for the purposes of the sealed cover procedure the disciplinary / criminal proceedings can be said to have commenced, the full bench of the Tribunal has held that it is only when a charge-memo in a disciplinary

proceedings or a chargesheet in a criminal prosecution is issued to the employee that it can be said that the departmental proceedings/ criminal prosecution is initiated against the employee. The sealed cover procedure is to be resorted to only after the charge-memo/ charge-sheet is issued. The pendency of preliminary investigation prior to that stage will not be sufficient to enable the authorities to adopt the sealed cover procedure. We are in agreement with the Tribunal on this point.”

The applicant was served chargesheet on 30.09.2014. So D.E. can be said to have started on 30.04.2014. Inquiry officer was appointed on 17.04.2015.

Hon’ble Supreme Court in Prem Nath Bali Vs. High Court of Delhi & Another (Judgment delivered on 16.12.2015) has held:-

“To conclude the departmental inquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time frame then efforts should be made to conclude

within reasonably extended period depending upon the cause and the nature of inquiry but not more than a year.”

6. However, the departmental inquiry could not be completed within the stipulated period of one year and is still pending as on today. In the meantime, the applicant stood retired on 31.07.2017 from the post of Naib Tahsildar. However, gratuity was not paid to the applicant on the ground that the inquiry is pending against him. It is the contention of the applicant that similarly placed delinquent had approached the Tribunal by filing O.A. No. 648/2016. The said O.A. was filed by one Shri Shaikh Kalam. While partly allowing the said O.A. vide order dated 16.11.2016 directions were issued to the respondents to complete the inquiry within a period of four months from the date of the order. Specific directions were also issued to the respondents that in case the inquiry is not completed within a period of four months from the date of the order the respondent authority shall pay all retiral benefits to the applicant. It is the contention of the applicant that retiral benefits like provisional pension have been paid regularly and general provident fund (G.P.F.) and government insurance scheme (G.I.S.) has also been duly paid. However, only gratuity was withheld owing the pendency of the departmental inquiry. The Inquiry Officer has submitted the report and exonerated the applicant from all the five charges which were levelled in the chargesheet. It appears from the record that government has issued a

final notice on 12.02.2021 (A-2, Pg. No. 13). Since then no progress is seen.

7. Vide order dated 22.09.2022, the ld. P.O. was directed to take instructions regarding the status of departmental inquiry. But no instructions were received by the ld. P.O.. The ld. P.O. has strongly objected to granting the relief claimed by the applicant. It is pointed out by the ld. P.O. that the chargesheet was issued on 03.09.2014 and inquiry officer was appointed on 17.04.2015, thus the inquiry had commenced in the year 2014 itself. The applicant stood retired on 31.07.2017. Thus the said inquiry was initiated against the applicant when he was in service. On this point the ld. P.O. sought time to file reply and place all the facts before this Tribunal. Several chances were given to the respondents to file their reply but they failed to submit the same. At this stage we are not inclined to grant further time to file reply. Despite the Judgment in O.A. No. 648/2016 till date the inquiry is not completed since last eight years. Now again the respondents want time to file reply. Thus, the prayer for filling the reply by ld. P.O. is rejected. For the reasons best known to the respondents there has been no finality and the final order of the inquiry is not yet passed.

8. The ld. Counsel for the applicant invited our attention to the inquiry report (A-2, Page No.13). From perusal of the inquiry report it is clear that the inquiry officer has exonerated the applicant from the

charges levelled against him. We have perused all the documents filed by the Id. Counsel along with this O.A.. We are of the opinion that the applicant is entitled for the relief claimed in the original application.

ORDER

- The O.A. is allowed in terms of clause A & B.
- The amount shall be paid with interest @ which is payable on G.P.F. amount, within four months from today.
- No order as to costs.

(M.A.Lovekar)
Member(J)

aps

Dated - 16/11/2022

(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
& Hon'ble Member (J).

Judgment signed : 16/11/2022.
on and pronounced on

Uploaded on : 17/11/2022.