

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 216 /2022 (D.B.)**

Vijay Bhaurao Manjare,  
Aged about 58 years,  
Occ. Retired,  
R/o Jaistambha Chowk,  
Badnera, Amravati.

**Applicant.**

**Versus**

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

**Respondents**

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

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

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

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**JUDGMENT**

**(Delivered on this 16<sup>th</sup> 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 has approached the Tribunal challenging the action of the respondents i.e. not releasing the gratuity to the applicant and other retiral benefits on the ground that departmental inquiry is pending against the applicant.

3. The applicant was appointed on the post of 'Junior Clerk' on 19.12.2001. The applicant stood retired as 'Naib Tahsildar' at District Supply Office, Amravati on 31.01.2022 (A-1, Pg. No. 10). It is the contention of the applicant that on 09.04.2013 a show cause notice came to be issued to him and others. The applicant came to be suspended and a chargesheet dated 30.09.2014 was issued to the applicant and similarly placed other delinquents. On 17.04.2015, inquiry officer came to be appointed for conducting departmental inquiry. However, the departmental inquiry could not be completed and it is still pending. In the meantime, the applicant stood retired on 31.01.2022 (A-1, Pg. No. 10) from the post of Naib Tahsildar. However, gratuity is not paid to the applicant on the ground that the inquiry is pending against him.

4. 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 and vide order dated 16.11.2016 the O.A. was partly allowed and specific directions were issued to the respondents to complete the inquiry within a period of four months from the date of this order. Specific directions were also issued

to the respondents that in case the inquiry is not completed within a period of four months 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 and general provident fund (G.P.F.) and government insurance scheme (G.I.S.) have also been duly paid. However, only gratuity was withheld owing to the pendency of the departmental inquiry. It seems that even after the order was passed in O.A. No. 648/2016 the departmental inquiry is not completed till date and the other similarly placed delinquents were already exonerated by inquiry officer and also the applicant (page no. 13).

5. As per **Hon'ble Supreme Court Judgment in case of Union of India etc. Vs. K.V.Jankiraman etc. (1991) AIR 2010. 1991 SCR (3) 790**, in para no. 6 it has been 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.”*

So, by the above cited Judgment Hon’ble Supreme Court has fixed the date of starting date of D.E.. Since the applicant was served chargesheet on 30.09.2014, it means D.E. was started on 30.04.2014. As submitted by ld. counsel in synopsis 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, in para no. 33** has observed as follows:-

*“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 it is still pending. In the meantime, the applicant stood retired on 30.01.2022 (A-1, Pg. No. 10) from the post of Naib Tahsildar, however gratuity is not paid to the applicant on the ground that the inquiry is pending against the applicant.

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 30.09.2014 and inquiry officer had already been appointed on 17.04.2015, thus the inquiry is already commenced in the year 2014 itself. The applicant stood retired on 31.01.2022 (A-1, Pg. No. 10), 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 clear 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 filing 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 Id. Counsel for the applicant invited our attention to the inquiry report. The inquiry officer has exonerated the applicant from the charges levelled against him. We have perused all the documents filed by the Id. Counsel for the applicant along with this O.A. and hence 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 clauses 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.