

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 714 of 2021 (SB)

Dilip s/o Keshavrao Lad,
aged about 63 yrs. Occ. Retired,
Taluka Agriculture Officer, Amravati,
R/o. B- 8, Yashashree Row Houses, Ganuwadi Lay-out,
Old Bye-pass road, Amravati-444606.

Applicant.

Versus

1) State of Maharashtra through its Secretary,
Agriculture Department, Mantralaya, Mumbai-32.

2) Divisional Joint Director of Agriculture,
Amravati Division, Krushi Sankul,
Vidyapeeth Road, Amravati- 444602.

3) District Superintending Agriculture Officer,
Visava Colony, Old Bye-pass road, Camp Amravati- 444602.

4) Sub-Divisional Agriculture Officer,
Morshi, Manorama Complex, Simbhora Chowk,
Morshi, Distt. Amravati.

Respondents.

Shri P.V. Thakre, Advocate for applicant.

Shri A.P. Potnis, learned P.O. for respondents.

**Coram :- Hon'ble Shri M.A. Lovekar,
Member (J).**

Date of Reserving for Judgment : 30th June, 2023.

Date of Pronouncement of Judgment : 5th July, 2023.

JUDGMENT

(Delivered on this 5th day of July, 2023)

Heard Shri P.V. Thakre, learned counsel for the applicant and

Shri A.P. Potnis, learned P.O. for the respondents.

2. Facts leading to this O.A. are as follows –

The applicant was holding the post of Taluka Agriculture Officer. He retired on superannuation on 30/04/2016. On 14/06/2016 respondent no.2 issued a show cause notice (Annex-A-2) to the applicant in respect of unutilised cement bags and proposing recovery of Rs.88,352/- from him. On 22/07/2016 the applicant submitted his reply/ explanation (Annex-A-4). His pensionary benefits were withheld. By letter dated 16/02/2018 (Annex-A-6) the applicant requested to release provisional pension. By letter dated 12/11/2020 (Annex-A-7) the applicant communicated that he was prepared to deposit the amount which was sought to be recovered from him. On 10/12/2020 he deposited amount of Rs.1,64,273/- by Challan (Annex-A-9). The applicant was then served with a show cause notice (Annex-A-11) proposing to recover from him an amount of Rs.10,59,739/-. The notice stated –

“ विभागीय चौकशी नियम पुस्तिका चौथी आवृत्ती 1991 मधील नियम 3.10 (दोन) चे तरतुदीनुसार तक्त्यामध्ये दर्शविल्याप्रमाणे VIIDP गाडेगाव व गतिमान पाणलोट विकास कार्यक्रम मौजे हूमणपेठ व रवाळा या दोन्ही गावातील कामाचे सिमेंट रक्कम 951278/- पैकी 10 टक्के म्हणजेच रु.95127/- व अधिक VIIDP गाडेगाव चे लोखंड रक्कम 615632/- पैकी 25 टक्के म्हणजेच रु.153908/- व अधिक VIIDP गाडेगाव चे अपूर्ण असलेली कामे रक्कम 1453408/- पैकी 50 टक्के म्हणजेच

रु.726704/- व अधिक गोडावून भाडे 100 टक्के रक्कम रुपये 84000/- असे एकुण वसुल पात्र रुपये 1059739/- रक्कम ही नोटीस प्राप्त झाल्यापासुन श्री.डि.के.लाड, तालुका कृषि अधिकारी, वरुड ता. वरुड जि. अमरावती यांनी 10 दिवसाचे आत या अगोदर निश्चित केलेल्या नोटीसच्या अनुषंगाने भरणा केलेला वसुली सदर वसुलीतुन वजा करुन उर्वरीत वसुली उप विभागीय कृषि अधिकारी, मोर्शी या कार्यालयात जमा करावी. "

As per request of the applicant (Annex-A-13) papers of preliminary inquiry (Annex-A-14) were supplied to the applicant. In communication dated 25/04/2016 (at page no.43) it was stated –

"वरील संदर्भिय विषयान्वये संदर्भ क्र. १ अन्वये माझेकडे वरुड तालुक्यातील सीमेंट प्रकरणाची चौकशी दिली असल्यामुळे या कार्यालयाचे तत्कालीन तंत्र अधिकारी श्री. अशोक शि.डोंगरे यांचे मदतीने वरुड येथील गोडावून मध्ये विनावापर पडुन असलेल्या सीमेंटची प्राथमिक चौकशी करण्यात आली. त्यामध्ये विदर्भ सधन सिंचन विकास कार्यक्रम (VIIDP) अंतर्गत मौजे गाडेगांव येथील २५४० बॅग मौजे हुमनपेठ रवाळा येथील ६३९ बॅग असे एकुण ३१७९ बॅग सीमेंट विनावापर गोडावून मध्ये पडुन असल्याचे प्राथमिक चौकशी अंती दिसुन आले.

आपले संदर्भ क्र.१ चे पत्रान्वये वरुड येथील गोडावून मध्ये विनावापर सिमेंट पडुन असल्याने सदरचे सीमेंट वाया जाण्यास जबाबदार असलेले अधिकारी / कर्मचारी यांची नावे कळविण्याबाबत कळविले आहे. तरी सदर प्रकरणी तत्कालीन अधिकारी /कर्मचारी हे त्या कामाची व सीमेंट पुरवठ्याशी संबंधीत जबाबदार असल्याचे प्राथमिक चौकशी वरुन दिसुन येते. "

To show cause notice dated 21/06/2021 the applicant submitted his reply dated 04/08/2021 (Annex-A-15) praying for his exoneration, and refund of Rs.1,64,273/-.

3. Stand of respondent nos.2 to 4 is that the starting point of irregularity was in the year 2013, action was initiated in the year 2016 and hence the proceedings against the applicant squarely fall within the four corners of Rule 27 of the Maharashtra Civil Services (Pension) Rules, 1982.

4. The respondents have made an attempt to contend that inquiry commenced against the applicant on 14/06/2016. On 14/06/2016 only show cause notice was issued. The applicant had already retired on superannuation on 30/04/2016. Again on 21/06/2021 another show cause notice was issued (Annex-A-11). Thus, even till this point of time departmental inquiry was not initiated. It may be reiterated that the applicant had retired on superannuation on 30/04/2016. Admittedly, no departmental inquiry was initiated before retirement of the applicant. No statement of charges was issued to the applicant before his retirement as mandated by Rule 27 (6) of the Maharashtra Civil Services (Pension) Rules, 1982. Rule 27 (2) (b) (ii) of the Maharashtra Civil Services (Pension) Rules, 1982, lays down that departmental proceedings, if not instituted while the government

servant was in service, whether before his retirement or during his re-employment, shall not be in respect of any event which took place more than four years before such institution. In these facts, the impugned show cause notice as well as recovery of Rs.1,64,273/- are required to be quashed and set aside being barred by limitation of four years stipulated in Rule 27 (2) (b) (ii) of the Maharashtra Civil Services (Pension) Rules, 1982. Hence, the order –

ORDER

(i) The O.A. is allowed.

(ii) The impugned show cause notice (Annex-A-11) is quashed and set aside. The respondents are directed to release remaining part of retiral benefits in favour of the applicant as well as amount of Rs.1,64,273/- with interest as provided under Rules 129-A / 129-B of the Maharashtra Civil Services (Pension) Rules, 1982, within three months from today.

(iii) No order as to costs.

(M.A.Lovekar)
Member (J).

Dated :- 05/07/2023.
dnk.

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 05/07/2023.