

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 907 /2022 (D.B.)**

Giridhar S/o Narayan Kurve,  
Aged about 67 years, Occ. Retired,  
R/o Radha Nagar, Bhau Colony,  
Amravati, District Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through its Urban Development Department,  
Mantralaya, Mumbai-32.
- 2) The Regional Departmental,  
Enquiry officer, Having its office  
in the Commissioner's office,  
Amravati.

**Respondents**

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**Shri S.P.Palshikar, 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 24<sup>th</sup> day of Nov., 2022)**

**(Per:-Member (J))**

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

2. Case of the applicant is as follows. On 10.06.2010 the  
applicant was working as Commissioner, Municipal Council, Akola. On

that day he was served with a chargesheet (A-1). On 13.09.2010 he submitted a reply (A-2) denying the solitary chart. Respondent no. 1, by order dated 01.09.2012 (A-3) appointed respondent no. 2 as Inquiry Officer. Assistant Director, Municipal Administration, Amravati Division, Amravati was appointed as Presenting Officer. The applicant stood retired on superannuation on 31.07.2013. The Inquiry is still pending though it was initiated 12 years ago. The department took two years to appoint Inquiry Officer and Presenting Officer. The Inquiry is liable to be quashed in view of the ratio laid down in **Prem Nath Bali Vs. Registrar, Delhi High Court & Another - AIR 2016 SC 101**. The inquiry which was initiated when the applicant was in service was continued even after he stood retired on superannuation on 31.07.2013. However, no order was issued authorising continuance of inquiry after retirement. This lacuna vitiates the inquiry. The order dated 23.11.2015 (A-5) passed by National Consumer Disputes Redresal Commission, New Delhi shows that the amount which was the subject matter of departmental inquiry is in safe custody of the liquidator of the Bank and there is no charge of misappropriation. A criminal case registered on the same allegation is pending against the applicant. Application for discharge from the said case filed by the applicant was rejected by the Trial Court. The applicant has challenged said order of rejection under Section 482, CRPC in the Hon'ble High Court where said proceeding is pending. For these reasons

chargesheet dated 10.06.2010 (A-1) deserves to be quashed and set aside on the grounds of delay and laches. Hence, this original application.

3. The respondents have not filed reply to the original application.

4. Chargesheet dated 10.06.2010 (A-1) sets out the following charge –

“बाब क्रमांक १-

उक्त श्री गिरीधर नारायण कुर्वे, मुख्याधिकारी श्रेणी-१ यांनी अकोला महानगरपालिकेच्या खात्यात जमा असलेली रूपये १.३० कोटी रक्कम विदर्भ अर्बन को-ऑप बँक, अकोला या बँकेत सक्षम प्राधिका-याच्या परवानगीशिवाय गुंतवून नियमबाह्य वर्तन केले. तदनंतर सदरची बँक अवसायानात निघाल्यामुळे उक्त रक्कम अकोला महानगरपालिकेस परत मिळाली नसल्याने आर्थिकदृष्ट्या डबघाईस आलेल्या बँकेत रक्कम गुंतवणूक करून ते अकोला महानगरपालिकेच्या आर्थिक नुकसानीस कारणीभूत ठरले आहेत. त्यांनी वरीलप्रमाणे आपल्या कर्तव्यात कसूर केलेली आहे. व सदर नुकसानीची रक्कम त्यांच्याकडून वसूल करण्यास श्री कुर्वे सकृतदर्शनी पात्र ठरत असल्याचे दिसून आलेले आहे.

सबब, महाराष्ट्र नागरी सेवा (वर्तणूक) नियम १९७९ मधील नियम ३(१) तसेच मुंबई प्रांतिक महानगरपालिका अधिनियम, १९४९ मधील कलम ९२ (२) या तरतूदींचा श्री कुर्वे यांनी भंग केलेला आहे.”

To rebut the charge the applicant filed a detailed reply dated 13.09.2010 (A-2).

5. On behalf of the applicant reliance is placed on the following observations made in order dated 23.11.2015 (A-5) to contend that the amount is fully secured –

*“8. Section 21 of the Deposit Insurance and Credit Guarantee Corporation Act 1961, to the extent it is relevant provides that where any amount has been paid under section 17 or section 18 or any provision therefor has been made under section 20, the Corporation shall furnish to the liquidator or to the insured bank or to the transferee bank, as the case may be, information as regards the amount so paid or provided for. On receipt of the information under sub-Section (1), notwithstanding anything to the contrary contained in any other law for the time being in force, the liquidator shall repay to the Corporation out of the amount if any payable by him in respect of any deposit such sum or sums as make up the amount paid or provided for by the Corporation in respect of that deposit.*

*9. If the liquidator is directed to give precedence to the complainant over other creditors of the bank, this would adversely affect the interest of the Corporation and will be in conflict with the provisions contained in Section 21 (2) of the Deposit Insurance and Credit Guarantee Corporation Act,*

*1961, since in that case the amount available to the liquidator for payment in respect of the deposits shall get reduced to that extent.*

*10. For the reasons stated hereinabove, we direct the opposite party to refund the amount of 1 Crore to the complainant along with interest on that amount @ 9.5% per annum till the date of payment. It is however made clear that the complainant shall not be entitled to any precedence in the matter of the aforesaid payment and the same shall be treated at par with other dues of the opposite party bank, without adversely affecting the interest of the Deposit Insurance and Credit Guarantee Corporation.”*

6. The applicant has relied on following observations in the case of Prem Nath Bali (supra) –

*“30. We are constrained to observe as to why the departmental proceeding, which involved only one charge and that too uncomplicated, have taken more than 9 years to conclude the departmental inquiry. No justification was forthcoming from the respondents’ side to explain the undue delay in completion of the departmental inquiry except to*

*throw blame on the appellant's conduct which we feel, was not fully justified.*

33. *keeping these factors in mind, we are of the considered opinion that every employer (whether state or private) must make sincere endeavour 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."*

7. The applicant has also relied on "**State of A.P. Vs. N.Radhakishan (1998) 4 SCC 154**. In this case it is held:-

*"19. It is not possible to lay down any pre-determined principles applicable to all cases and in all situations where there is delay in concluding the disciplinary proceedings. Whether on that ground the disciplinary proceedings are to be terminated each case has to be examined on the facts and*

*circumstances in that case. The essence of the matter is that the court has to take into consideration all relevant factors and to balance and weigh them to determine if it is in the interest of clean and honest administration that the disciplinary proceedings should be allowed to terminate after delay particularly when delay is abnormal and there is no explanation for the delay. The delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his part in delaying the proceedings. In considering whether delay has vitiated the disciplinary proceedings the Court has to consider the nature of charge, its complexity and on what account the delay has occurred. If the delay is unexplained prejudice to the delinquent employee is writ large on the face of it. It could also be seen as to how much disciplinary authority is serious in pursuing the charges against its employee. It is the basic principle of administrative justice that an officer entrusted with a particular job has to perform his duties honestly, efficiently and in accordance with the rules. If he deviates from this path he is to suffer a penalty prescribed. Normally, disciplinary proceedings should be*

*allowed to take its course as per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the court is to balance these two diverse considerations.”*

8. The applicant has further relied on G.R. dated 07.04.2008 (at pages 59/60) issued by G.A.D., Government of Maharashtra. This G.R. takes cognizance of departmental inquiries which were then pending for more than five years. It states that inquiry should be completed within six months. It further states which authority will have powers to extend this period by further six months setting the outer limit to conclude the inquiry at one year from the date of its initiation. It further states that those responsible for pendency of departmental inquiry for more five years shall be dealt with departmentally after fixing responsibility.

9. The inquiry in this case started on 10.06.2010. In the chargesheet a solitary charge was laid. The applicant submitted reply to the charge without inordinate delay. In the inquiry eight witnesses were cited. The applicant stood retired on superannuation on 31.07.2013. In the inquiry Inquiry Officer and Presenting Officer were appointed two years after its initiation.



10. Roznama of the inquiry is at pages 44 to 58. The first date given in the inquiry was 02.11.2015. Roznama shows that between 02.11.2015 and 08.06.2017 number of dates were given. On eight of these dates the applicant was present. He remained absent on three dates. The inquiry was adjourned for variety of reasons like absence of witnesses, Inquiry Officer, Presenting Officer or on the ground of some administrative exigency. For almost all these adjournments the applicant was not responsible.

11. Roznama dated 30.09.2020 shows laxity of the concerned. It reads as under:-

“३०.०९.२०२०:-सदर प्रस्तुत प्रकरणांची पाहणी केली असता, प्रकरणांत दि. ०८ जून, २०१७ रोजी सुनावणीचे कामकाज झाले नाही व त्यानंतर कोणतीही सुनावणीची तारीख दिल्याचे दिसून येत नाही.

त्यानुसार प्रकरणांत पुढील सुनावणी दि. ०५ नोव्हेंबर, २०२० रोजी निश्चित करण्यात आली असुन सदर तारखेबाबत सादरकर्ता अधिकारी तथा सहायक संचालक, प्रादेशिक नगरपरिषद प्रशासन अमरावती यांना पत्राद्वारे कळवावे. पत्र बाब.”

पु.ना. ०५ नोव्हेंबर, २०२०.

Thus, for more than three years no progress was made in the inquiry. Thereafter, 13 dates were given in the inquiry. On 15.11.2020 the Presenting Officer, witnesses as well as the applicant were absent. Roznama dated 30.09.2020 does not make it clear whether the next date

i.e. 15.11.2020 was duly intimated to all the concerned persons. On 09.12.2020 witnesses were absent. On 15.03.2021 the P.O., the applicant as well as witnesses were absent. On 13.07.2021 witnesses were absent. On 21.08.2021 the P.O., the applicant as well as witnesses were absent. Same was the case on 29.10.2021. On 17.12.2021 witnesses were absent. On none of the dates given thereafter witnesses were present. These details show that no real efforts were made to conclude the inquiry without loss of time. Such laches will go against the respondent department. We have referred to the charge, order at A-5, legal position laid down in the rulings relied upon by the applicant and Roznama of the inquiry proceeding. All these circumstances taken together lead us to conclude that on account of delay and laches the inquiry against the applicant cannot be allowed to go on further and it deserves to be quashed and set aside. The **O.A. is accordingly allowed in terms of prayer clause (i)**. No order as to costs.

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

aps

Dated - 24/11/2022

**(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 : 24/11/2022.  
on and pronounced on

Uploaded on : 25/11/2022.