

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.242 OF 2021

**DISTRICT: PUNE
SUBJECT: PENSIONARY BENEFITS**

- 1) Shri Dinkar Balkrishna Kedari,)
Age: 65 years, Occupation: Retired Dy. Engineer,)
R/o. Flat No.2, Shriram Plaza, Ambethan Road,)
Balkrishna Nagar, At. P.Chakan, Tal. Khed,)
Dist. Pune.) **... Applicant**

Versus

- 1) The State of Maharashtra,)
Through The Secretary,)
Planning Department, Govt. of Maharashtra,)
Mantralaya, Mumbai-400 032.)
- 2) The Secretary,)
Water Resources Department,)
Govt. of Maharashtra, Mantralaya,)
Mumbai-400 032.)
- 3) The Divisional Commissioner,)
Nashik Division, Nashik Road, Nashik-422 101.)
- 4) District Water Conservation Officer,)
Soil and Water Conservation Division,)
Sinchan Bhavan, Aurangabad Road, Ahemadnagar)
(Old Executive Engineer, Minor Irrigation,)
Local Sector Ahemadnagar).)

- 5) Accountant General (A&E)-I,)
101, Maharshi Karve Road, Mumbai- 400 020.) **Respondents**

Shri C.T. Chandratre, learned Advocate for the Applicant.

Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : Shri A.P. Kurhekar, Hon'ble Member (J)

DATE : 18.06.2021.

JUDGMENT

1. Heard Shri C.T. Chandratre, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.
2. Today, learned P.O. has filed short Affidavit of Shri Nand Kumar, Additional Chief Secretary, Employee Guarantee Scheme (Planning Department), Soil and Water Conservation Department, Mantralaya, Mumbai in terms of order passed by this Tribunal on 03.06.2021.
3. The present O.A. is filed by the Applicant on 01.04.2021 for direction to the Respondents to release his retrial benefits which were held up on the ground of pendency of Department Enquires though he stands retired long ago on 30.09.2014.
4. Thus though the Applicant stands retired on 30.09.2014 and till date period of near about seven years is completed, he is deprived of getting retrial benefits due to sheer negligence and lethargy on the part of Respondents for not completing Departmental Enquiries initiated against him while he was in service. There were three Departmental Enquiries against the Applicant, one Departmental Enquiry was closed. In remaining

two Departmental Enquiries, Enquiry Officer submitted enquiry report in 2018. However, thereafter no further steps were taken and therefore the Applicant was constrained to file this O.A. to get his retrial benefits.

5. Indeed, in terms of various circulars issued by the Government, directions were issued to complete Departmental Enquiry expeditiously maximum within six months from date of its initiation. In this behalf reference may be made to the circulars dated 07.04.2008 and 30.10.2010 which are at page 36 and 38 of paper book. As per circular dated 07.04.2008 if Departmental Enquiry is not completed within six months, Head of the Department is required to extend the period up to nine months and if it is not completed within one year permission by way of extension is required to be obtained from Administrative Head in Mantralaya. Furthermore, it further specified that if Departmental Enquiry is not completed within five years and continued for more than five years the Government is required to fix responsibility as who is responsible for the delay and should take necessary disciplinary action against the concerned. This position is again reiterated by the Government in terms of circular dated 30.10.2010 wherein it is again reiterated that in case of retired Government servant utmost care is to be taken to complete Departmental Enquiry expeditiously maximum within a year and if it is delayed then responsibility is required to be fixed on the person who is responsible for delay in completion of Departmental Enquiry.

6. Despite the aforesaid circulars as well as decision rendered by this Tribunal it has become common phenomenon to keep the Departmental

Enquires pending for years together which is nothing but negligence in discharge of public duties.

7. Now turning to the present case one Departmental Enquiry is already closed and in remaining two Departmental Enquires, Enquiry report was submitted in 2018 but it was kept in cold storage and no steps were taken in right earnest for completing enquires.

8. It is on the above background, Additional Chief Secretary was directed to file Affidavit and to explain the steps taken by the Department in the matter after receipt of enquiry report.

9. As regard second Departmental enquiry in Affidavit it is stated that Additional Commissioner, Nashik has forwarded proposal with enquiry report to Mantralaya with letter dated 08.03.2019. Admittedly, in this Departmental Enquiry, enquiry report was submitted in 2018. However it was kept pending with Additional Commissioner, Nashik and he forwarded to the Government belatedly on 08.03.2019. In Affidavit it is further stated that thereafter matter was processed and it is only on 04.05.2021 Show Cause Notice is issued to the Applicant as to why punishment of three percent deduction in pension should not be imposed against him. Whereas in third Enquiry Show Cause Notice has been issued on 31.05.2021 as to why sum of Rs.70,446/- (Seventy Thousand Four Hundred and Forty Six Only) should not be recovered from his gratuity and as to why punishment of six percent deduction of pension for one year should not be imposed against him. The Applicant has already tendered his explanation to Show Cause Notice on 08.06.2021.

10. Thus it is only after filing of this O.A. when the Respondents are served with the notice and the Tribunal has passed several stern orders, Respondent seems to have woke-up and issued Show Cause Notice. Suffice to say there is unreasonable delay at every stage whereby, the Applicant is deprived to get retrial benefits for the period of near about seven years.

11. Indeed, the Government was required to enquire who is responsible for not completing the Departmental Enquires within stipulated period, but nothing is done. It is nothing but abdication of duties as well as negligence in discharge of duties on the part of concerned.

12. Suffice to say material on record clearly indicates sheer negligence, apathy and lethargy on the part of concerned. The Affidavit filed by Additional Chief Secretary is silent on material points. Thus there is attempt to shield the concerned Officials who are responsible for delay in completion of Departmental Enquiries. It is only after filing of O.A. and after the Tribunal passed several orders Department started process and issued Show Cause Notice three years after the date of receipt of enquiry report which is nothing but classic example of maladministration.

13. Since, two Departmental Enquiries are pending at the verge of issuance of final order, the Applicant will get his retrial benefits only after conclusion of Departmental Enquiries. The Applicant is constrained and compelled to file this O.A. to get his legitimate retirement dues which were required to be paid to him immediately after his retirement subject to order in Departmental Enquires. In other words the Applicant is deprived

of his retrial benefits. This situation would have been avoided had Respondents acted with due diligence. The Applicant is therefore required to be compensated to defray the expenses incurred by him in filing the O.A. Apart despite various orders passed by the Tribunal no sincere effort is made by the Secretary, Planning Department for fixing the responsibility on the concerned and the Affidavit is totally silent on this crucial aspect.

14. I am therefore inclined to impose cost of Rs.25,000/- (Twenty Five Thousand Only) upon Respondent No.1 to 3 jointly and severally. The Respondents are at liberty to recover the cost from the concerned person who is responsible for delay in completing Departmental Enquiry.

15. O.A. is therefore disposed of with direction to Respondent No.1 to pass final order in Departmental Enquiry within a month from today without fail in accordance to law and the decision as the case may, shall be communicated to the Applicant within a week thereafter.

16. Respondents are directed to release retrial benefits of the Applicant as per his entitlement in Rules, subject to final order in D.E. within one month from the date of final order in D.E.

17. Respondents No.1 to 3 are further directed to deposit cost of Rs.25,000/- in the Tribunal within a week. On deposit it be paid to the Applicant.

18. Copy of this order be sent to the Chief Secretary, Government of Maharashtra, Mantralaya, Mumbai for information and remedial measures as he deems fit.

Sd/-
(A.P. Kurhekar)
Member (J)

Place: Mumbai
Date: 18.06.2021
Dictation taken by: N.M. Naik.