

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 568/2015.

Shri Prafulla Manohar Gupte,
Aged about 59 years,
R/o Ramdaspath, Damle Marg,
Akola. ----- **Applicant.**

Versus

The State of Maharashtra,
Through its Secretary,
Department of Revenue and Forest,
Mantralaya, Mumbai

2. The Collector, Akola,
Office of Collectorate, Akola.
3. The Sub- Divisional Officer,
Akot, Tah. and Distt. Akola.
4. Tahsildar, Akot,
Tahsil Office, Akot, Distt. Akola. ----- **Respondents.**

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1. Shri O.Y. Kashid, Advocate for the applicant.
 2. Shri S.A. Sanis, Presenting Officer for the Respondents.

CORAM : R.B. Malik : Member (J)
DATE : 6th February, 2017

ORDER

This O.A. seeks to challenge the order dtd. 7/10/2014 whereby minor punishment of censure came to be imposed on the applicant under Rule 5(1)(i) of the Maharashtra Civil Services, Discipline and Appeal Rules, 1979 (D & A Rules hereinafter) .

2. I have perused the record and proceedings and heard Shri O.Y. Kashid, Id. counsel for the applicant and Shri S.A. Sanis, Id. P.O. for the respondents.

3. It is not necessary to discuss in detail the facts herein. It would be sufficient to mention that on certain allegations pertaining to the general elections of 2009, a show cause notice came to be issued to the applicant on 5/4/2009. It was responded to. It appears that the departmental enquiry was initiated against the applicant and ultimately on 7/10/2014 the impugned order came to be made imposing minor penalty on the applicant. It is indisputable position that the applicant retired on superannuation on 30th Sept., 2013. Thereafter the

recourse to any action under the D & A Rules would be simply out of question. If it was an instance of grave misconduct for which there is not even a particle of material herein action could be taken only under Rule 27 of the Maharashtra Civil Services (Pension) Rules. 1982 (hereinafter referred to as the Pension Rules) and even there under the ultimate scope will be limited to withholding of pension to the extent therein mentioned. No other punishment major or minor could be imposed in the facts and circumstances.

4. The Id. P.O. Shri S.A. Sanis did his very best to try to convince me that on merit there was a case for imposition of penalty. In my opinion however, in view of the above discussion, it is not even necessary for me to examine what the Id. P.O. contends to be the merit of the matter. No doubt, censure would even otherwise be only a matter of record but even for that matter of record it will have to come true to the law and rules. The order herein impugned stands hereby quashed and set aside. The order imposing minor penalty of censure is accordingly quashed and set aside. The respondents are

directed to do the needful in accordance herewith and the O.A.
is allowed in these terms with no order as to costs.

(R.B. Malik)
Member (J)

Skt.