

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 627/2021 (D.B.)

Abhijeet S/o Arun Mane,
Aged 33 years, Occ. Service,
(At present NIL), R/o at post Rahimatpur,
Tah. Koregaon, Dist. Satara.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Forest and Revenue Department,
Mantralaya, Mumbai-32.
- 2) Principal Chief Conservator of Forest,
Maharashtra State, Having its office at Van Bhavan,
Ramgiri Road, Civil Lines, Nagpur.
- 3) Additional Principal Chief
Conservator of Forest
(Administration & Secondary Cadre),
Having its office at Van Bhavan, Ramgiri Road,
Civil Lines, Nagpur.
- 4) The Regional Inquiry Officer,
Having its office at Divisional Commissioner Office,
Civil Lines, Nagpur.
- 5) The Chief Conservator of Forest
and Field Director Pench Tiger
Reserve having its office at 3rd floor,
Sanchar Laxmi Building (BSNL),
Kasturchand Park, Nagpur.

Respondents.

Shri S.P. Palshikar, Advocate for the applicant.
Shri M.I. Khan, P.O. for respondents.

**Coram :- Shri Shree Bhagwan,
Vice-Chairman and
Shri Justice M.G. Giratkar,
Member (J).**

Date of Reserving for Judgment : 11th January,2022.

Date of Pronouncement of Judgment : 18th January,2022.

JUDGMENT

Per : Member (J).

(Delivered on this 18th day of January, 2022)

Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. This O.A. is filed by the applicant with a following prayer –

“ 8. (i) to quash and set aside the charge sheet dated 02/02/2019 (Annex-A-19) as illegal bad in law and also on the ground of delay and latches;

(ii) to hold and declare that the applicant is exonerated from the charge which is levelled against him;

(iii) to direct the respondents to reinstate the applicant in service forthwith by granting him all consequential and monetary benefits arising there from;

(iv) to hold and declare that the applicant is deemed to have been in continuous service as a Range Forest Officer and direct the respondent to do so;

(v) Grant any other relief which deems fit including cost in the facts and circumstances of the present case.

9. (A) to stay all further proceeding in pursuance of charge sheet dated 02/02/2019 pending before the respondent no.4, during the pendency of the original application, to meet the ends of justice.”

3. The case of the applicant in short is as under –
4. The applicant has cleared the Maharashtra Forest Examination, 2012 for the post of Range Forest Officer (Group-B) on 27/01/2014. On 7/2/2014, the applicant was sent for training for the said post. On 24/08/2015, the applicant joined as Range Forest Officer at Pauni / Umred Karandala Sanctuary.
5. The applicant has submitted resignation letter on 3/11/2015 for the reasons mentioned in the said letter. The applicant was asked by the respondents to submit detailed reasons for resignation by letter dated 27/11/2015. Again the applicant was asked by the respondents by letter dated 6/7-12-2015 to submit detailed reasons for resignation. The applicant informed by letter dated 6/11/2015 that he is going on leave and his leave should be considered as a leave without pay. The resignation dated 3/11/2015 given by the applicant was not accepted by the respondents. Finally on 19/7/2018, the applicant was informed that he shall deposit the expenses of training from 17/2/2014 to 16/8/2015. He did not deposit the same, therefore, his resignation was not accepted till date.
6. The respondents neither accepted nor rejected the resignation of the applicant even till today. The respondents issued charge sheet on 2/2/2019 making charges against the applicant about the absenteeism from duty. The said departmental enquiry is

completed and the presenting officer submitted his written argument to the Enquiry Officer. The Enquiry Officer submitted his report stating that charge about the absenteeism of the applicant is proved. The Appointing Authority has not taken any decision about the outcome of the departmental enquiry.

7. The application is strongly opposed by the respondents by filing reply. It is submitted that the applicant was appointed on the post of Range Forest Officer. He was sent for training. He has completed his training. The Government has spent about Rs. 5,82,800/- for the expenditure of training of applicant. As per the submission of respondents, the applicant had given Bond while joining his service of Rs. 5,50,000/-. If the applicant wants to resign from the post of Range Forest Officer, then he shall deposit the amount of Rs. 5,50,000/-. It is also submitted in the reply that without paying the Bond amount and expenditure of training the applicant cannot resign from the post. Hence, the application is liable to be rejected.

8. The learned counsel for applicant has pointed out various documents filed on record and submitted that till date the respondents have neither accepted nor rejected the resignation of the applicant. He has submitted that the respondents have not taken any decision of the departmental enquiry. The Enquiry Officer has submitted his report on 31/8/2021, but till today the respondents have not taken any

decision. The learned counsel for the applicant has submitted that the employer employee relationship still subsist as per the documents filed by the respondents.

9. The learned counsel for the applicant submitted that the respondents be directed to join the applicant on duty. The learned P.O. strongly opposed and submitted that the respondents / department has incurred the expenditure of training of applicant. Moreover, the applicant had given Bond of Rs.5,50,000/- at the time of joining his duty as Range Forest Officer. The applicant has to pay Rs.5,82,800/- before submitting his resignation. The applicant has not paid Rs.5,82,800/- and therefore his resignation is not accepted till date.

10. During the course of argument the Id. counsel for the applicant has pointed out the Rule-66 of the Maharashtra Civil Services (Pension) Rules, 1982 (hereinafter referred to as "MCS (Pension) Rules"). The rule 66 reads as under -

“66. Retirement on completion of 20 years qualifying service-

(1) At any time after a Government servant has completed twenty years qualifying service, he may, by giving notice of three months in writing to the appointing authority, retire from service.

(2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the appointing authority.

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.” ----- ”

11 The Id. P.O. submitted that the Rule 66 of the MCS (Pension) Rules, is not applicable to the present case as it is applicable for V.Rs.

12. The learned counsel for the applicant has fairly submitted that the case of the applicant is not governed by the Rule 66 of the MCS (Pension) Rules, his case is governed by G.R. dated 2/12/1997.

13. The learned counsel has submitted that the departmental enquiry initiated by the respondents is pending since long. Therefore, the said enquiry be quashed and set aside. In support of submission pointed out decision of Hon'ble Apex Court in case of **Prem Nath Bali vs. Registrar, High Court of Delhi & Ano. AIR 2016 SCC 101.**

14. There is no dispute that the applicant was appointed as Range Forest Officer as per appointment order dated 27/1/2014 (A-1,P-29). As per the appointment order, the applicant has executed Bond of Rs.5,50,000/-. The applicant was sent for departmental training centre at Kundal. The applicant has completed training of 18 months, thereafter, he was posted as Range Forest Officer at Umred Karandala Sanctuary on 24/08/2015. The applicant submitted his resignation on 3/11/2015. He was informed by letter dated 27/11/2015 stating that the reason for his resignation is not clear and he has not paid the expenditure spent by the department for his

training of 18 months at Kundal. Again he was informed the same thing on 6/7-12-2015.

15. The applicant keeps mum for about two and half years. For the first time on 29/1/2018 he sent one letter to the Chief Conservator of Forests (M.S.), Nagpur stating that due to some household problems he had submitted resignation, but he withdrew the same and allow him to join duty. Again on 5/3/2018 the applicant requested the respondents / department to allow him to join duty. On 19/7/2018 the applicant was informed that he has to pay the expenditure of training centre. On 24/07/2018, the applicant submitted request letter stating that he wants to withdraw his resignation and allow him to join duty. Thereafter, the Department has issued show cause notice on 14/8/2018 alleging that the applicant is absent from duty without any permission. He has not paid the Bond of Rs.5,50,000/- and expenditure of training centre.

16. The applicant had given one application dated 6/11/2015 stating that his leave from 7/11/2015 till the acceptance of resignation be granted. The applicant submitted his explanation on 28/8/2018. The applicant made several requests to allow him to join on duty. Finally charge sheet was issued on 2/2/2019. The only charge against the applicant is that, he is absent from duty without sanction of leave. The applicant remained personally present to explain the

charge. He had given his written explanation also. The Enquiry Officer was appointed. The Enquiry Officer submitted his report on 31/8/2021 to the Chief Conservator of Forests, Pench Tiger Project, Nagpur. The applicant was called upon to give explanation about enquiry report. The applicant also submitted his explanation. Now the enquiry is complete and only result of the enquiry is to be declared.

17. The learned counsel for the applicant has submitted that enquiry is pending since long and therefore in view of the decision in case of **Prem Nath Bali vs. Registrar, High Court of Delhi & Ano.**, the enquiry is liable to be quashed and set aside.

18. In the case of **Prem Nath Bali vs. Registrar, High Court of Delhi & Ano.**, the Hon'ble Lordship has observed that the enquiry was pending for 9 years and it was not completed. No justification was forthcoming to explain the undue delay in completion of the departmental enquiry except to throw blame on the appellant's and therefore the petition was allowed.

19. In the present matter, the applicant submitted his resignation on 3/11/2015. He was informed on 27/11/2015 to pay the training expenditure of 18 months. The applicant did not comply the same direction. On 6/11/2015, he had given one application stating that his leave from 7/11/2015 till the acceptance of resignation be granted. It is pertinent to note that the leave was not granted. The

applicant has not complied the direction given by the respondents as per letter dated 27/11/2015. The applicant has admitted in his letter dated 28/8/2018 that he has executed Bond of Rs.5,50,000/-. The department / respondents informed the applicant to pay Rs.5,82,800/- including the amount of expenditure of training centre, but he has not complied the same. Till date, the resignation of the applicant is not accepted. In such situation, the applicant cannot say that his leave is sanctioned by the respondents.

20. For the first time in the year 2018, the applicant requested the respondents to allow him to join duty. The guidelines for acceptance of his resignation are given in G.R. dated 2/12/1997. As per the clause 4 of the said G.R., the Appointing Authority shall inform about acceptance / non-acceptance of resignation within one month. But in clause 7, it is specifically mentioned that before acceptance of the resignation, the amount of Bond etc. shall be taken into consideration and it should be informed before one month. The applicant was informed immediately on 27/11/2015 to pay the amount of bond expenditure etc., but he has not complied the same.

21. From perusal of the resignation letter dated 3/11/2015, it appears that it was not a one month notice nor accompanied with one month pay. Therefore, in view of the guidelines in G.R. dated

2/12/1997 the respondent / department has not considered / not accepted the resignation of the applicant.

22. The applicant is continuously absent from 7/11/2015 and therefore charge sheet was issued about absenteeism. After the charge sheet, the explanation was called. The Enquiry Officer completed the enquiry and submitted his report on 31/8/2021. As per the report, the charge of absenteeism is proved. The explanation of applicant is called. Now the respondent has to take final decision about the outcome of the enquiry. The cited decision in case of **Prem Nath Bali vs. Registrar, High Court of Delhi & Ano.**, is not applicable to the present case. The Appointing Authority / Disciplinary Authority is at liberty to take decision.

23. In that view of the matter, the relief prayed in the O.A. cannot be granted. Hence, the following order –

ORDER

The O.A. is dismissed. No order as to costs.

(Justice M.G. Giratkar)
Member(J).

(Shree Bhagwan)
Vice-Chairman.

Dated :- 18/01/2022.

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 V.C. and Member (J).

Judgment signed on : 18/01/2022.

Uploaded on : 18/01/2022*