

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 903 of 2018 (S.B.)

Shri Siddhartha Bhikaji Khule,
Aged 35 years, Occ. Service,
R/o Tahsil Office, Akot,
Tq. Akot, Dist. Akola

Applicant.

Versus

- 1) The State of Maharashtra,
through the Department of Revenue and Forest,
through its Secretary, Mantralaya, Mumbai-32.
- 2) Divisional Commissioner, Amravati.
- 3) The Collector, Collector Office, Akola

Respondents.

Shri V.B. Bhise, Advocate for the applicant.
Shri M.I. Khan, P.O. for the respondents.

WITH
ORIGINAL APPLICATION No. 904 of 2018 (S.B.)

Shri Vishnu Dashrath More,
Aged 39 Yrs. Occ. Service,
R/o Tahsil Office, Akot,
Tq. Akot, Dist. Akola

Applicant.

Versus

- 1) The State of Maharashtra,
through the Department of Revenue and Forest,
through its Secretary, Mantralaya, Mumbai-32.
- 2) Divisional Commissioner, Amravati.
- 3) The Collector, Collector Office, Akola

Respondents.

Shri V.B. Bhise, Advocate for the applicant.
Shri A.P. Potnis, P.O. for the respondents.

WITH

ORIGINAL APPLICATION No. 06 of 2019 (S.B.)

Ku. Harsha Prabhakar More,
Aged about 29 Yrs. Occ. Service,
R/o Tahsil Office, Akot,
Tq. Akot, Dist. Akola

Applicant.

Versus

- 1) The State of Maharashtra,
through the Department of Revenue and Forest,
through its Secretary, Mantralaya, Mumbai-32.
- 2) Divisional Commissioner, Amravati.
- 3) The Collector, Collector Office, Akola

Respondents.

**Shri V.B. Bhise, Advocate for the applicant.
Shri S.A. Sainis, P.O. for the respondents.**

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated :- 15/12/2021.

COMMON JUDGMENT

Heard Shri V.B. Bhise, learned counsel for the applicants and Shri M.I. Khan, Id. P.O. and other Id. P.Os. for the respondents.

2. The O.As. are filed by the employees of Tahsil Office, Akot, Dist. Akola. The applicant Ku. H.P. More (in O.A. 06/2019) and Shri S.B. Khule (in O.A.No.903/2018) were working in the Tahsil Office. They were directed to attend as punch witnesses. Both declined to attend as punch witnesses. On that ground without any departmental enquiry, one increment of both the employees were

permanently stopped. Appeal was filed before the Divisional Commissioner, Amravati. The said appeal came to be dismissed on 25/6/2018. Hence, they approached before this Tribunal.

3. The employee namely Shri V.D. More (in O.A. 904/2018) was working as a Junior Clerk from 14/1/2015. The applicant worked as Awal Karkun in Food Supply Department in Tahsil Office, Akot. By letter dated 3/8/2017 the Public Information Officer and Naib Tahsildar, Akot informed the Tahsildar that the applicant could not search the criminal cases in respect of which the information was sought by one Mr. Devidas R. Nikam. There is a negligence and carelessness on the part of the applicant. But without seeking any explanation from the applicant, the Tahsildar, Akot prepared proposal for taking disciplinary action against him. On 23/8/2017 Tahsildar, Akot recommended proposal for minor punishment to the Collector. The Collector, Akola (R/3) without seeking any explanation and without giving any opportunity of hearing to the applicant, imposed the punishment of stopping two increments permanently. Thereafter, appeal was filed by the applicant before the Divisional Commissioner, Amravati. The appeal was partly allowed and punishment of stoppage of one increment permanently was awarded, instead of two increments.

4. In all three O.As., it is contention of the applicants that stoppage of increments permanently amounts to major punishment and therefore it was necessary on the part of respondents / employer to conduct departmental enquiry.

5. The Id. P.O. submits that stoppage of increment permanently amounts to minor punishment and therefore the O.As. are liable to be dismissed.

6. The learned counsel for the applicants pointed out the Judgment of Hon'ble Bombay High Court in case of **Narendra Motiram Bodkhe Vs. Additional Commissioner, Nagpur 2006 (5) Mh.L.J.,229**. The Division Bench of Bombay High Court relying on the Judgment of Hon'ble Supreme Court in case of **Kulwant Singh Gill Vs. State of Punjab reported in 1990 Vol.2, 686**, set aside the punishment of stoppage increment permanently amounts to major punishment. Therefore, departmental enquiry is necessary. The para-8 of the said Judgment is as under –

“8. Considering the law laid down by the Apex Court, it is evident that in the instant case the punishment of withholding 2 increments permanently is admittedly the punishment which would fall in the category of major punishable and by necessary implication such punishment could not have been imposed by the Zilla Parishad without conducting appropriate departmental enquiry.”

7. The Judgment says that the stoppage of increment permanently will affect the pensionary benefits and therefore it amounts to major punishment, therefore, before awarding punishment of stoppage increment permanently, departmental enquiry is necessary to prove misconduct. In the present O.As., no any departmental enquiry was conducted by the respondent nos.2&3. Tahsildar submitted proposal to the Collector about the misconduct on the part of the applicants. The misconducts were not so serious, the applicants namely Ku. H.D.More and S. B. Khule were directed to attend as Panch witnesses, but they were not ready. It was the duty of the Tahsildar to get their explanations as to why they declined to act as panch witnesses, but without any explanation, directly made the proposal to the Collector for awarding punishment.

8. In the case of Shri V.D. More, some cases were misplaced in respect of cases filed under Section 107 of Cr.P.C. He was also not given any opportunity of hearing or called any explanation. The Collector without calling any explanation of the employees / applicants, awarded punishment of stoppage of increment permanently. In the case of Shri V.D. More two increments were permanently stopped. In the appeal, the Divisional Commissioner partly allowed the appeal and modified the punishment by awarding stoppage of one increment permanently.

9. In view of the judgment of Hon'ble Bombay High Court based on the Judgment of Hon'ble Apex Court, it is clear that stoppage of increment permanently is a major punishment and therefore without any inquiry, the department / employer cannot stop the increment permanently. In all three O.As. without any departmental enquiry, the punishment of stoppage of increment was awarded. In that view of the matters, the following order –

ORDER

- (i) The O.A. Nos.903/2018, 904/2018 and 06/2019 are allowed.
- (ii) The impugned orders dated 25/06/2018 (in O.A.903/2018), dated 2/7/2018 (in O.A.904/2018) and 25/6/2018 (in O.A.06/2019) in respect of applicants are hereby quashed and set aside.
- (iii) The respondent nos.2&3 are directed to release the increment as a regular increment.
- (iv) No order as to costs.

Dated :- 15/12/2021.

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

*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 : 15/12/2021.

Uploaded on : 21 /12/2021.