

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.154 OF 2020  
with  
ORIGINAL APPLICATION NO.A.242 of 2020  
With  
ORIGINAL APPLICATION NO.243 of 2020**

**District : Thane**

Shri Hanmant Ganpati Holmukhe, )  
Aged 57 years, Working as Technical )  
Officer in the office of Divisional Joint )  
Director of Agriculture, Dist. Thane. )  
R/o. A/P Tadsar, Tal. Kadegaon, )  
Dist. Sangali. )..**Applicants**

**Versus**

The State of Maharashtra, through )  
Additional Chief Secretary, Agriculture )  
Department, Mantralaya, Mumbai 32. )...**Respondents**

**Shri Arvind V. Bandiwadekar, Advocate for Applicant.**

**Ms S. P. Manchekar, Chief Presenting Officer for Respondents.**

**CORAM : SHRI A.P. KURHEKAR, MEMBER-J**

**DATE : 13.10.2020**

**J U D G M E N T**

1. All these Original Applications are filed by the Applicant Shri Hanmant G. Holmukhe for various grievances and can be conveniently decided by the common order. At the very outset, it needs to point out that this litigation could have been avoided if Respondent would have taken prompt action in the matter and grievances were attended to within reasonable time. Regret to observe that inaction and lethargy on the part of respondent is obvious from record.

2. Original Application No.154/2020 has been filed for treating suspension period from 02.08.2016 to 28.02.2019 as a duty period for all purposes. While, Applicant was serving as Taluka Agricultural Officer, Tal. Aatpadi, Dist. Sangali, the Government by order dated 02.08.2016 suspended him in contemplation of Departmental Enquiry (D.E.) invoking Rule 4(1)(a) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 (hereinafter referred to as 'Rule 1979' for brevity). However, no D.E. was initiated for a long time but in meantime, he was reinstated in service belatedly by order dated 01.02.2019. As the Applicant was subjected to prolong suspension and no D.E. was initiated, he has filed this O.A. in view of his ensuing retirement on 31.05.2020 and stands retired during pendency of O.A.

3. After filing of the O.A., the Tribunal has passed various interim orders to know inaction on the part of department to initiate D.E. and thereafter only charge sheet has been issued on 09.03.2020. Shri Eknath Dawale, Secretary (Agriculture), Agriculture Department in his Affidavit sought to blame the Commissioner of Agriculture for not taking action promptly against the Applicant.

4. Thus, what emerges from perusal of record and on hearing of learned Counsel for the Applicant as well learned C.P.O. that during pendency of this O.A., D.E. has been initiated on 09.03.2020 and enquiry officer has been appointed on 13.07.2020. D.E. is still pending without any substantial progress.

5. Obviously, there is inordinate and unreasonable delay on the part of Respondents to initiate D.E. against the Applicant. Indeed, in terms of Circular dated 07.04.2008 and guidelines issued in D.E. manual, D.E. ought to be completed within six months from the date of suspension but no such steps were taken and Applicant was subjected to prolong suspension and D.E. was also initiated after three and half years.

Suffice to say, there is negligence, inaction and lethargy on the part of Commissioner, Agriculture for not taking prompt steps in accordance to Service Rules and various Circulars issued by the Government.

6. Indeed, as a matter of record, the Government by letter dated 03.02.2020 asked by the Commissioner, Agriculture, Pune to cause enquiry as to why D.E. was not initiated and further directed the Commissioner, Agriculture, Pune to take further action immediately. Thereafter also the Government by letter dated 28.08.2020 sent reminder to the Commissioner, Agriculture, Pune about proposed action of Commissioner, Agriculture, Pune for departmental action against the concerned officers for failure to take necessary steps for initiating D.E. However, the Commissioner, Agriculture, Pune did not respond to the Government as to what action he contemplates against the concerned officials for inordinate delay

7. Inordinate and unreasonable delay in initiating D.E. has become common phenomenon which results in filing of various proceeding by the concerned public servant in this Tribunal but the Government as well as concerned Disciplinary Authority seems little bothered about the same.

8. Be that as it may, admittedly the D.E. is initiated against the Applicant on 09.03.2020 but there is no substantial progress in the proceeding. The Applicant stands retired on 31.05.2020 and obviously his some of the retirement benefits are withheld due to pendency of D.E.

9. Now turning to the relief claimed, the Applicant's claim for treating the period of suspension as duty period for all purposes is premature as the decision in respect of same needs to be taken only after conclusion of D.E. I am not in agreement with the submission advanced by the learned Counsel for the Applicant that under Rule 72(6) of Maharashtra Civil Services (Joining Time, Foreign Service, and Payments during

Suspension, Dismissal and Removal) Rules, 1981, the Applicant is entitled for the relief claimed subject to the final decision in D.E.

10. In view of above, this O.A. deserves to be disposed of with suitable directions to complete pending D.E. as well as to take appropriate action against the concerned officials for delay in initiating D.E. against the Applicant.

11. Now, turning to O.A.No.242/2020, it pertains to pending proposal of the Applicant for grant of leave. The Applicant was on leave from 23.07.2014 to 31.08.2014 for 40 days, from 25.11.2014 to 04.12.2014 for 10 days and again from 05.08.2015 to 01.08.2016 for 362 days. He claims medical leave for this period but no orders have been passed on his leave application. The Applicant has made representation dated 23.04.2020 but in vain. According to Respondents, there are various queries in the leave matter which are required to be complied with by the Applicant, and therefore, final orders are not passed. As such, this O.A. also can be disposed of with suitable directions to pass appropriate order on pending leave application of the Applicant since he has already retired on 31.05.2020.

12. In so far as O.A. No.243/2020 is concerned, it has been filed for direction to release increments from the year 2008 to 2019 whereas Respondents contention is that because of tendency of Applicant to proceed on leave frequently and incomplete service book, necessary orders of grant of increments were not passed by the Competent Authority. As such, grievance raised in this O.A. is also very limited, and therefore, this O.A. also can be disposed of by suitable directions to the Respondents.

13. For the aforesaid reasons and discussion, all these Original Applications are disposed of in terms of following orders:-

**O.A.No.154 of 2020**

- (A) Original Application is partly allowed.
- (B) Respondent is directed to complete the D.E. pending against the Applicant by passing final order therein within three months from today in accordance to law.
- (C) Decision as the case may be, shall be communicated to the Applicant within two weeks thereafter.
- (D) Needless to mention that the Competent Authority is thereafter required to pass order about suspension period in accordance to law.
- (E) Respondent is further directed to cause enquiry about the delay caused in initiating D.E. against the Applicant and shall take appropriate departmental action against the concerned officials who found responsible for the same and compliance report be submitted to this Tribunal within three months.
- (F) No order as to costs.

**O.A.No.242 of 2020**

- (A) Original Application is allowed partly.
- (B) Respondent No.1 is directed to pass appropriate orders on the pending leave applications of the Applicant within three months from today in accordance to Leave Rules.
- (C) If the Respondents have any query about the leave applications of the Applicant then it shall be communicated to the Applicant and after getting his explanation, necessary final order in the matter of leave shall be passed.
- (D) No order as to costs.

**O.A. No.243 of 2020**

- (A) Original Application is allowed partly.
- (B) Respondent No.1 is directed to get service book of the Applicant updated and to pass orders about the claim of the Applicant for release of increments within three months from today according to his entitlement and rules.
- (C) Applicant is also directed to co-operate the Respondents for completion of D.E. as well as to supply necessary information if required for sanction of leave as well as for releasing increments.
- (D) No order as to costs.

Sd/-  
**(A.P. KURHEKAR)**  
**MEMBER-J**