

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 168 of 2016 (SB)**

Chandrashekar Manohar Sanhal,
Aged : Adult,
Sub Divisional Engineer,
Public Works Department,
Mantralaya, Mumbai-32.

Applicant.

Versus

- 1) State of Maharashtra,
Planning Department,
Mantralaya, Mumbai-32 through Secretary
to Government.
- 2) The State of Maharashtra,
through its Secretary, Public Works Department,
Mumbai-32.
- 3) The Commissioner,
Amravati Division, Amravati
Camp by pass road, Amravati.
- 4) Zilla Parishad, Washim,
through the Chief Executive Officer,
Zilla Parishad, Washim.

Respondents

Shri M.R. Rajgure, Advocate for the applicant.

Shri M.I. Khan, learned P.O. for respondent nos. 1 to 3.

Shri Shrikant Saoji, R.G. Chandhani, P. Thakre, Adv. for R-4.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGMENT

(Delivered on this 30th day of July,2018)

Heard Shri M.R. Rajgure, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for respondent nos. 1 to 3. None for respondent no.4.

2. The applicant was Sub Divisional Engineer and was on deputation to Zilla Parishad, Washim during the period from 03/09/1998 to 02/03/2000. He was placed under suspension by the Commissioner, Amravati Division, Amravati on 29/01/2000. The charge sheet was served on the applicant on 17/05/2000 in the departmental enquiry and seven charges were framed against him. His suspension was revoked on 18/7/2000 and the Government accorded sanction for joint enquiry of the applicant with one B.B. Solunke, Sectional Engineer on 18/05/2001. In the meantime, the applicant filed O.A.No. 57/2004 before the Maharashtra Administrative Tribunal, wherein, the respondents were directed to pay applicant's increments which were stopped after suspension.

3. In the departmental enquiry, the Government has passed an order on 05/11/2011. The said relevant order of punishment in the departmental enquiry is as under :-

^R; k vFkh] vkrk egkjk"Vlpsjkt; i ky] egkjk"V"ukxjh I dk ¼f' kLr o vihy½ fu; e 1979 P; k fu; e 6 o 9 vUo; si klr >kyŸ; k vf/kdkjkud kj egkjk"V"ukxjh I dk ¼f' kLr o vihy½ fu; e 1979 P; k fu; e 5 ¼1½¼rhu½ P; k rjrmhuu kj Jh-I h, e- l ugky] mi foHkkxh; vfhk; ark ; kP; kdMuu 'kkI ukl >kyŸ; k upl kuhph jDde , dmk #i ; s53]107@& ol ny dj .ks¼l eku ngk gLR; kr½ vkf.k fu; e 5 ¼1½¼pkj½ P; k rjrmhuu kj R; kph i qhy oruok<Hkfo"; krhy oruok<hoj i fj.kke u djrk , d o"kkP; k dkyko/khl kBh jks[au Bp. ; kph f'k{kk nsr vkgkr- **

4. Against the order of punishment, the applicant preferred an appeal before the Hon'ble Minister and the Hon'ble Minister vide order dated 11/09/2014 was pleased to dismiss the appeal. The earlier order of punishment was therefore confirmed and being aggrieved by the said order, the applicant has filed this O.A. The applicant has claimed following reliefs :-

"10. (A) The applicant therefore humbly prays that Hon. Tribunal be pleased to quash and set aside, the impugned order passed by the State of Maharashtra, Planning Department vide order No. Rohyo 1511/CR-5/Rohyo-2, dated 05/11/2011, marked as Annex-A-1 and Appellate order dated 11/09/2014, which was communicated to applicant vide order no.776, dated 17/12/2015 by the Superintending Engineer cumulatively shown by Annex-A-2.

B) Be pleased to direct that suspension period of applicant from 29/02/2000 to 31/07/2000, should be treated as duty period after holding that suspension was unjustified."

5. The respondent no.3, the Divisional Commissioner, Amravati filed reply-affidavit and justified the action taken against the applicant. It is stated that there is cogent evidence against the applicant in the departmental enquiry and full opportunity was given to the applicant to defend him. In fact very lenient view has been taken against the applicant. The respondent no.4, i.e., the Zilla Parishad, Washim also defended the inquiry against the applicant.

6. The learned counsel for the applicant Shri M.R. Rajgure submitted that no opportunity was given to the applicant to defend the inquiry and relevant documents were not supplied and therefore grave injustice has been caused on the applicant. The inquiry conducted is against the principles of natural justice and equity. It is stated that the applicant was on deputation to Zilla Parishad and only parent authority could be the disciplinary authority and no other authority could enjoy the powers even to suspend or initiate departmental inquiry against the applicant. The Inquiry Officer found the charge nos.1 and 3, 4&5 as partly proved against the applicant and therefore the applicant ought to have been exonerated as dishonesty was not proved on the part of applicant and mere negligence without any ulterior intention cannot be treated as misconduct. The competent authority has

not considered the recommendations of the Divisional Commissioner, Amravati with a proper perspective.

7. It is further stated that the charges against the applicant were said to be proved without any material evidence on record and even the Inquiry Officer has not given its opinion as to how charges were partly proved. The defence was overlooked and not considered properly.

8. Perusal of the ground on which the inquiry has been challenged clearly shows that there is no whisper that the applicant was not given an opportunity to defend. There is no whisper that the documents were claimed and were not supported.

9. I have perused the inquiry report as well as the findings given by the Inquiry Officer. The charges against the applicant were as under :-

*nks'kkjksi dækad 1 & vipkjh vf/kdkjh Jh-I ugky gs ftYgk ifj"kn ckdkdke
mi foHkkx] ex#Gi hj ; fksmi vfhk; ark Eg.kou dke djhr vl rkauk R; kauh eksSt; tke
; fkyh varxh ----- vl rkauk vankt i=dkrhy udk'kk o rjrqh ; k iæ.k.s-----
----- I k-ck- fu; ekoyh ifjPNn dz45 pk Hkx dsyk vtgs*

*nks'kkjksi dækad 2 & I k-ck- fu; ekorhy ifj'k"V&24 e/khy clk dz11 P; k
rjrqhuq kj I oz>ky; ; k dkekph eki smi vfhk; ark ; kauh fygko; kl i kfgtsrh vipkjh
vf/kdkjh Jh-I ugky ; kauh fyfgysyh ukgh- eki smi vfhk; ark ; kauh ri kl .kh u djrk
etjrkph etjh o dæ-kVnkjrkph ns dlpk jDde vnk dsyh*

vi pljkh vf/kdkjh Jh- I ugky ; kauh ; k dR; kr I k-ck- fu; ekoyh i fjf'k"V 24 e/khy fu; e 11] i fjf'k"V 42 e/khy vupeled 36 o 70 o jkg; ksl kjx&k [kM 1 e/khy i jfPNn 7]9]6]17]3 ¼, p½1 rs5 o ftYgk i fj"kn ys[kk I &grk i jfPNn 168 , Q pk Hkx dsyk vkg

nks'kkjksi d&led 3 & vi pljkh vf/kdkjh Jh-I ugky ; kauh fufj {k.k okgu dz , e>MD; w 825 djhrk [kkR; kP; k fu/khrmu b&kuoj [kpzu djrk jkg; kpsfu/khrmu [kpzdsk vkg R; koj R; kauh #i ; s1856& brdk [kpzdsk vkg R; keGSR; kauh jkg; ksl kjx&k [kM dz1 e/khy i jfPNn 2-18-1 e/khy ckc dz8 ¼C½ o ¼M½ ; k rjrmphk Hkx dsyk vkg

nks'kkjksi d&led 4 & eksts& tk&k ; &khy varx&r jLR; kpsdke vi pljkh vf/kdkjh Jh- I ugky ; kauh gt&jhi V dz523568 i&k.ks jLrk I ery dj. ; kl kBh 390 ?k-eh- ps dke dsys ek= gt&jhi V&ph rikl .kh u djrk #i ; s 5772& ph et&jh fnyh- rikl .khr [k&ndke djrkauk mi yC/k I ke&ph dkB&gh xkGk dsys&h ukgh- ; k I &al&h uk&n vk; -, e-vkj- jftLVjoj ?kr&sy&h ukgh- R; keG&#i ; s2886& psol gyhl ik= Bjr vl uu R; kauh I k-ck- fu; ekoyh i fjf'k"V 24 e/khy fu; e 11 o jkg; ksl kjx&k [kM&1 i jfPNn 17-3¼1½ ¼1½ rs17-3 ¼1½¼5½ pk Hkx dsyk vkg

nks'kkjksi d&led 5 & tk&k ; &khy varx&r jLR; kps cl&k&ke&kps v&nkt i =dkl fufj&jkG; k c&ch djhrk rjrmph dj. ; kr vkY; k- rF&ki h] i R; {k dke djrkauk mi j&Dr rjrmph u& kj d&es dj. ; kr vk&yh ukgh- dke deh dj. ; kr vk&ys ek= ek&teki i &rh&ds d&ke&ph eki st&klR nk[kfo. ; kr vk&yh- R; ki k&h et&j&auk et&jh o da=kv&n&j&auk #i ; s 100442& ps tk&nk j&deps H&k&rku dj. ; kr vk&ys R; keG&# vi pljkh vf/kdkjh I ugky ; kauh I k-ck- fu; ekoyh i fjf'k"V 45 o jkg; ksl kjx&k [kM&1 i jfPNn 17-3¼1½ e/khy 5 psrjrmphk Hkx dsyk vkg

nks'kkjksi d&led 6 & tk&k ; &khy varx&r jLR; kpscl&k&dke djhr vl rkauk vi pljkh vf/kdkjh Jh- I ugky ; kauh 80 eh-eh- [kMh o 40 eh-eh- P; k tkM&P; k [kM&ph et&jh v&nk djrkauk deh et&jh v&nk ds&yh- ; k dR; kl R; kauh I k-ck- fu; ekoyh i fjf'k"V 45 o jkg; ksl kjx&k [kM&1 i jfPNn 7-9-6 pk Hkx dsyk vkg

nks'kkjksi d&led 7 & tk& ; &khy varx&r jLR; kpscl&k&dke djhrk vl rkauk ojhrB vf/kdk&; kph i jokuxh u ?kr&k d&ke&psr&pd&si kM&u dke ds&ysvkg ; k dR; kl vi pljkh vf/kdkjh ; kauh 'kkI u xte fodkl foH&kx ijhi=d dzftiv@9@1089@idz 854@33] fnuk&d 08@02@1990 psrjrmphpsmY&aku ds&ysvkg

10. In all 5 witnesses were named such as (1) Shri Q.A. Daud, Executive Engineer, (2) Shri P.K. Adokar, Sub-Divisional Officer (3) Shri K.M. Kazi, Sub-Divisional Officer (4) Shri R.M. Chavan, Naib Tahsildar and (5) Shri A.K. Futane, Junior Engineer. All these witnesses except Shri K.M. Kazi, were examined. Not only that the applicant also examined himself as a witness. It seems from the inquiry report that full opportunity was given to the applicant to cross-examine the witnesses and not only that the applicant cross-examined the witnesses and the Inquiry Officer has appreciated the evidence.

11. The applicant's reply to show cause notice is placed on record at Annex-A-9 and the same was also considered by the Inquiry Officer. Perusal of the inquiry report clearly shows that there is nothing on the record to show that any material documents were not supplied to the applicant or that no opportunity was given to him. On the contrary, it seems that all the necessary documents were supplied and full opportunity was given to the applicant to cross-examine the witnesses and to submit his statement of defence and not only that applicant also examined himself as a witness. The respondent no.3, the Divisional Commissioner, Amravati also filed affidavit and denied

the allegations. There is nothing on the record to show that procedure was not duly followed as alleged by the applicant.

12. I have also perused the order passed by the Appellate Authority, i.e., by the Hon'ble Minister in the appeal dated 11/09/2014. The Appellate Authority has also considered the charges framed against the applicant as well as the documents placed on record and has stated that whatever punishment awarded to the applicant is illegal, proper and appropriate.

13. Before the Appellate Authority it was the contention of the applicant that he has been punished twice for the same charge, but it has been denied by the Appellate Authority with following reason :-

^7- 'kkI u vknSk fnukad 5 uksguj]2011 vllO; sJh-I ugky ; kR; kdMuu #53]107@& ol ny dj.kS¼I eku ngk gLR; kr½ vkf.k R; kph i qhy oruok< Hkfo"; krhy oruok<hoj i fj.kke u djrk , d o"kkP; k dkyko/khl kBh jks[kuu Bð.ksg h f'k{kk ; kk; vl uu R; ke/; s dkskrkgh cny dj.; kph vko'; drk ukgh] vl svi hykP; k l ukko.kh njE; ku mi vk; Ør ¼jksj; kS½] vejkorh ; kauh dFku dsysvkgS rI p Jh-I ugky ; kR; kojhy fl /n nks'kkjksi kR; k vut[kakkus 'kkI u uplI kuhph jDde ol ny dj.kS vkf.k R; kph i qhy oruok< , d o"kkP; k dkyko/khl kBh jks[kuu Bð.kS ; k nku osxG; k f'k{kk ukghr] R; keIGS R; kauh nku f'k{kk ns; kr vky; kpsvfi ykFkhpEg.k.ksl gl fpo ¼jksj; kS½ ; kauh [kkd/uu dk<ysysvkgS**

14. It, therefore, cannot be said that the Appellate Authority has not applied his mind. Since the applicant was responsible for causing financial loss to the Government, the Inquiry Officer rightly observed that the said amount shall be recovered from the applicant. It, therefore, cannot be said that the applicant was punished twice for one and the same charge. For negligence his increment has been stopped. Considering the allegations against the applicant, the punishment awarded to him is very minor and in fact very lenient view has been taken by the Disciplinary Authority as well as Appellate Authority and therefore I do not find any reason to interfere in the said decisions. Hence, the following order :-

ORDER

The O.A. stands dismissed with no order as to costs.

Dated :- 30/07/2018.

(J.D. Kulkarni)
Vice-Chairman (J).

dnk.