

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR**

**ORIGINAL APPLICATION NO.241/2013.**

**(S.B.)**

Rituraj Chotelal Patorkar,  
Aged about 29 years,  
Occ-Service (Food & Supply Inspector), Dharni.  
R/o Harihar Nagar, Talani, Tq. Dharni,  
District-Amravati.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Food & Civil Supplies  
and Consumer Protection,  
Mantralaya, Mumbai-32.
2. The Divisional Commissioner,  
Amravati Division, Amravati.
3. The District Collector,  
Amravati.
4. The Tahsildar, Dharni,  
Distt. Amravati.
5. The District Supply Officer,  
Office of District Collector,  
Amravati.

**Respondents**

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Dr. (Mrs.) R.S. Sirpurkar, the learned counsel for the applicant.  
Shri A.M. Ghogre, the Ld. P.O. for the respondents.

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

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**JUDGMENT**

(Delivered on this 23<sup>rd</sup> day of November 2017).

Heard Dr. (Mrs.) R.S. Sirpurkar, the learned counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents.

2. In this case, originally the applicant has claimed that the order dated 6.4.2013 issued by respondent No.3 ordering recovery of Rs. 15,14,360/- and notice dated 14.4.2013 for the same issued by respondent No.4 be quashed and set aside. By way of amendment, the applicant has also prayed for quashing and setting aside the order dated 4.3.2016 passed by the Divisional Commissioner, Amravati Division, Amravati vide No.APT-5/9Amravati/2012-13 (Annexure A-28) be quashed and set aside.

3. Vide order dated 6.4.2013 (Annexure A-2), the Collector, Amravati came to the conclusion that the applicant is liable to pay 40% of the value of lost grains which comes to Rs. 15,14,360/- so far as the applicant is concerned and the same shall be deposited within three days. In view of the said order, the Tahsildar, Dharni directed the applicant to deposit the amount vide his letter dated 10.4.2013 and as already stated, both these orders are under challenge.

4. Vide Annexure A-28, the applicant appealed against the order passed by Collector, Amravati and this order is also under challenge.

5. The respondents in their affidavit in reply tried to justify the order of recovery. It is stated that the applicant was responsible for dereliction of duty and was also involved in misappropriation of foodgrains from the Government Food Godown at Dharni and is liable to make good with the loss.

6. The learned counsel for the applicant has filed some documents on record in view of C.A. No. 466/2017 and submitted that for the similar charges, departmental enquiry has been initiated against the applicant. The charge against the applicant in the departmental enquiry is as under:-

**“दोषारोप ं.१:-**पी. आर. सी. पटोरकर, पुरवठा ङररु क, तहसील कायाल्लय, धारणी येथे पुरवठा ङररु क या पदावर कायशत असतांना धारणी तालुकांतगल आद्ववासी व्रकास महामंडळामाफ्र ंवत धाय दुकादारापयल धाय पोच देयात येते सदर वाहनासोबत धाय पोहचवून देयाचे कतय पुरवठा ङररु क यांचेकडे जबाबदारु सोपवलेलु असतांना सदर धाय संबंघत ंवत धाय दुकादारापयल पोहचले क्वा नाहु यांची सववी जबाबदारु पुरवठा ङररु क यांची आहे. याचमाणे शधापका धारकांना धाय ंळाले क्वा नाहु याबाबत दर माहयात पुरवठा ङररु क यांनी शहालशा केलेले नाहु यावन यांनी सदर बाबींकडे जाणीवपूवक पी. आर. सी. पटोरकर, पुरवठा ङररु क यांनी दुलु केलेले आहे. पी. आर. सी. पटोरकर, पुरवठा ङररु क यांनी शासकय धायाची वरलमाणे अफरातफर कन शासकय धायाची वहेवाटत लावयाची बाब ंपट होत असून यांनी शासनाचे आधक ंवपाची हानी झालेलु आहे.

तसेच या कायाल्लयाचे आदेशावये पी. आर. सी. पटोरकर, पुरवठा ङररु क यांचे काळात धायाची अफरातफर केयामुळे धायाया ४० टके रकम ं.१५,१४,३६०/- रकम शासकय खजीयामये भरयाचा आदेश मंजूर करयात आला होता. सादर आदेश ंत झायपासून उत नमूद रकम तीन दवसाचे आत शासकय खजीयात

जमा करण्याबाबत कळवण्यात आले होते. परंतु पी. आर. सी. पटोरकर, पुरवठा ज्ञात क यांनी सदर रकम भरणा न केल्यामुळे पी. आर. सी. पटोरकर, पुरवठा ज्ञात क यांचे वृद्ध जीवनावयक वतू कायदा अध्यायम १९५५ चे कलम ३ व ७ अन्वये फौजदार गुहा पोलीस स्टेशन धारणी, येथे द. १७.४.२०१३ रोजी दाखल करण्यात आलेला असून या अनुषंगाने यांना शासन सेवेतून जलंबत करण्यात आलेले आहे. यामुळे ते महाराष्ट्र नागर सेवा (शात व अपील) ज्ञयम ५ आधील १,२,३, नुसार व्रभागीय चौकशीस पाठ ठरतात.”

7. The learned counsel for the applicant submits that the applicant was under suspension w.e.f. 31.5.2013 till he was reinstated on 1.9.2015 and he has deposited the amount of Rs.4,00,000/- towards alleged loss during the pendency of criminal trial. She submits that the applicant will not insist for refund of that amount immediately and that since the charges in the departmental enquiry are under active consideration, it will not be proper to ask the applicant to deposit the remaining amount. The learned counsel for the applicant further submits that the application may be disposed of by continuing the stay to the recovery, subject to the decision of the departmental enquiry against the applicant.

8. The learned P.O. submits that in similar circumstances earlier also in similar cases, this Tribunal has stayed the recovery and directed completion of departmental enquiry.

9. Perusal of the charge in the departmental enquiry clearly shows that the applicant has been charged with misappropriation of

foodgrains and the share of the applicant for such loss is to the tune of Rs. 15,14,360/- and the said amount is being recovered from the applicant vide the impugned letters dated 6.4.2013, 10.4.2013 and 4.3.2016. Thus very subject matter of recovery seems to be charge in the departmental enquiry against the applicant. In such circumstances, whether the applicant is really responsible for the loss caused to the Government and whether the applicant has misappropriated the foodgrains alongwith others, is a question to be considered in the departmental enquiry. In such circumstances, directing the applicant to deposit the amount to the tune of Rs. 15,14,360/- at this juncture may cause great prejudice to the applicant and possibility that it may be beyond the applicants capacity at this stage to deposit such a huge amount, cannot be ruled out. If the applicant is found guilty in the departmental enquiry, the respondent authorities may take action for such recovery.

10. In view of the discussion in foregoing paras, following order is passed:-

**ORDER**

- (i) The O.A. is partly allowed.
- (ii) The impugned orders dated 6.4.2013 passed by respondent No.3 as regards recovery of Rs. 15,14,360/- and a notice to that effect issued by

respondent No.4 dated 10.4.2013 and the order dated 4.3.2016 issued by Divisional Commissioner, Amravati in APT-5/9Amravati/2012-13 (Annexure A-28) are stayed subject to the decision of the departmental enquiry against the applicant.

- (iii) It is needless to say that the applicant will not be entitled to refund of the amount which he had already deposited in this regard till the decision of the departmental enquiry and he will be required to pay the amount claimed vide order dated 6.4.2013, in case the departmental enquiry goes against the applicant.
- (iv) No order as to costs.

Dt. 23.11.2017.

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