

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION No. 301 of 2022 (S.B.)**

Suresh Gopinathji Thakre,  
Aged about 59 years, Occ. Retired,  
R/o Flat No.2-H, Second Floor,  
Building No.15, Nirmal Nagari, Umred Road,  
Nagpur – 440 009.

.....**Applicant.**

**Versus**

1) The State of Maharashtra,  
through its Principal Secretary,  
Women and Child Development,  
3<sup>rd</sup> Floor, New Administrative Building,  
Near Mantralaya,  
Mumbai-400 032.

2) The Commissioner,  
Women and Child Development  
Queens Garden, Near Old circuit House,  
Pune – 01.

.....**Respondents.**

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**Shri R.M. Fating**

..... **Advocate for the applicant.**

**Shri A.P. Potnis**

.... **learned P.O. for respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated :- 25/11/2022.**

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**ORAL JUDGMENT**

Heard Shri R.M. Fating, ld. counsel for the applicant and

Shri A.P. Potnis, ld. P.O. for the Respondents.

2. The case of the applicant in short is as under :-

The applicant was working as a Child Development Project Officer at Gondia. He was holding additional charge of the said post at Bhandara. The Respondent No. 1 suspended the applicant as per order dtd.06/09/2011, alleging that he has given the appointment orders to the Anganwadi Sevikas. No any departmental enquiry was initiated against him. The applicant is now retired on 30/04/2020 after attaining the age of superannuation. The applicant made several representations for deciding the suspension period and for payment of the salary and allowances of the said period. He was paid only subsistence allowance.

3. It was recommended by the Respondent No.2 to the State Government for regularisation of his suspension period. Instead of regularising the suspension period, the Respondent No. 1 passed the impugned order dt.20/12/2021, stating that the suspension period shall be treated as suspension period except pensionary benefits. Therefore, the applicant approached this Tribunal challenging the order dt. 20/12/2021.

4. The O.A. is strongly opposed by the Respondents. It is submitted that the applicant illegally appointed 13 Anganwadi Sevikas. Therefore, he was suspended. The suspension period is decided for not

treating the said period as a regular pay and allowances and only for pensionary benefits. At last, it is submitted that the O.A. is liable to be dismissed.

5. Heard Shri R.M. Fating, Id. counsel for the applicant. He has pointed out material documents filed on record and submitted that the applicant was only suspended but no charge-sheet was issued to him and this fact is admitted by the respondents in the reply also. The Id. counsel for the applicant submits that without any departmental enquiry, the respondents cannot treat the suspension period for not counting regular period for the purpose of salary and allowances. In support of his submission, he pointed out the judgment of the Bombay High Court reported in **1999(4) BomCR 531**. The Id. counsel has submitted that the applicant had given regular orders to 13 Anganwadi Sevikas as per the directions given by the Labour Court. There is no any illegality on his part. Hence, the impugned order itself is illegal. Therefore, the same is liable to be quashed and set aside.

6. Heard Shri A.P. Potnis, Id. P.O. for the Respondents. He has strongly opposed the O.A. and submitted that the applicant illegally appointed 13 Anganwadi Sevikas. Therefore, the action of the respondents is legal and proper.

7. The documents filed on record show that the suspension order was issued on 06/09/2011. From the perusal of the suspension order dt.06/09/2011, no reason was given for suspension. The ld. Counsel for applicant has pointed out the judgment of Labour Court in **Complaint U.L.P.A. No.13/2011**, decided on 10/12/2012. From the contents of the judgment, it appears that M.L.A. was a Chairman of the Selection Committee. He himself was present at the time of said appointments. After the said M.L.A., his son was appointed as a Chairman and he started harassment to those 13 Anganwadi Sevikas to extract money from them. Thus, services of those 13 Anganwadi Sevikas were terminated. Therefore, they approached to the Labour Court. The Labour Court directed to regularise services of those 13 Anganwadi Sevikas. The direction was given to the Project Officer, Woman & Child Development, Gondia. The applicant was working as a Project Officer, therefore, it was his duty to obey the order of the Labour Court. As per the direction of the Labour Court, the applicant has continued the services of those 13 Anganwadi Sevikas. This action of the applicant cannot be said to be illegal. Without any reason, the suspension order was passed on 06/09/2011. No any specific reason was given in the suspension order. Only it is mentioned that the applicant is suspended. Thereafter, no any departmental enquiry was initiated against the applicant. Without any

reason, the applicant was kept under suspension. The respondents have paid the subsistence allowance for the suspension period. The applicant is now retired. He made several representations. The Commissioner, Child & Women Development Department, Maharashtra State, Pune submitted proposal on 06/05/2014. It was proposed that explanation of the applicant was satisfactory and therefore, submitted for revocation of suspension and regularisation of the suspension period.

8. There is no dispute that the respondents have not initiated any departmental enquiry. Without any material against the applicant, he was kept under suspension. No any charge-sheet was issued. Without considering the proposal of the Commissioner, Child & Women Development Department, Maharashtra State, Pune, the impugned order dt. 20/12/2021 is passed stating that the suspension period shall be treated for pensionary benefits and not for other purposes. This order prima facie appears to be illegal. There is nothing against the applicant that he has committed any misconduct. Regularisation of 13 Anganwadi Sevikas was done as per the directions given by the Labour Court. In the above cited judgment, the Hon'ble Bombay High Court has held that **" the Govt. of India took into consideration the guidelines and instructions on the subject that suspension should be resorted to only in**

**those cases where a major penalty is likely to be imposed on conclusion of the proceedings and not a major penalty. The Government of India has rules that when an inquiry has been held for imposition of a major penalty and finally minor penalty is awarded, the suspension should be considered unjustified and in terms of F.R. 54-B the employee should be paid full pay and allowances for the period of suspension by passing a suitable order. for passing suitable order."**

9. In the present matter, no any departmental enquiry was initiated against the applicant. There was no any criminal case against the applicant, even though the suspension order was issued against the applicant. The applicant was only paid subsistence allowance. Hence, the impugned order dt.20/12/2021 is liable to be quashed and set aside . Hence, the following order :-

**ORDER**

- a) The O.A. is allowed.
- b) The impugned order dt.20/12/2021 is hereby quashed and set aside.
- c) The Respondents are directed to treat the suspension period from 06/09/2011 to 20/05/2012 as a duty period

for all purposes and shall pay all the consequential benefits i.e. balance salary and allowances etc. within a period of 3 months .

- d) The O.A. stands disposed of .

**Vice-Chairman**

Skt.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Smt. S.K. Thombre.