

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 727 of 2021 (DB)

Mr. Vaibhav Pundlik Atram,
Aged about 45 years, Occ. Service,
O/o Chandrapur District Prison,
Chandrapur (M.S.).

Applicant.

Versus

- 1) The State of Maharashtra,
through its Additional Chief Secretary,
Department of Home,
Mantralaya, Mumbai-32.
- 2) Deputy Secretary (Prison),
Department of Home,
Mantralaya, Mumbai-32.
- 3) Secretary and Special Inquiry Officer (2)
General Administration Department,
Hall No.723 (Extension),
Mantralaya, Mumbai-32.

Respondents.

Shri S.C. Deshmukh, Advocate for the applicant.

Shri M.I. Khan, P.O. for the respondents.

**Coram :- Shri Shree Bhagwan,
Vice-Chairman and
Shri Justice M.G. Giratkar,
Member (J).**

Date of Reserving for Judgment : 9th March,2022.

Date of Pronouncement of Judgment : 23rd March,2022.

JUDGMENT

Per : Member (J).

(Delivered on this 23rd day of March, 2022)

Heard Shri S.C. Deshmukh, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. The applicant worked at Nagpur Central Prison as a Senior Jailor Grade-I from 1/7/2014 to 6/4/2015. On 31/3/2015, one incidence took place in the Central Prison. Five prisoners fled from the prison. The applicant was put under suspension vide order dated 6/4/2015. Lateron, in the year 2016 he came to be reinstated and posted at Chandrapur Prison.

3. On 21/8/2015, joint departmental enquiry against the applicant and 9 others were started and on 12/1/2016 Enquiry Officer and Presenting Officer were appointed and charges were framed. The charge sheet was served on the applicant on 3/9/2015 and since last six years there is no progress in the departmental enquiry.

4. The applicant had filed O.A. 958/2019 before this Tribunal. This Tribunal passed an order directing the respondents to decide the departmental enquiry within a period of six months as per order dated 9/1/2020. The enquiry was not completed. The C.A. was filed by the respondents on 12/3/2021 for extension of time. It was also dismissed. Till date the departmental enquiry is going on without any progress. Therefore, prayed to quash and set aside the departmental enquiry and charge sheet issued by respondent no.2.

5. The application is strongly opposed by the respondents. It is submitted that the delay is caused due to Covid, therefore, departmental enquiry was not completed.

6. Heard the learned counsel for the applicant Shri S.C. Deshmukh. He has pointed out the Judgment of this Tribunal in O.A. 352/2021 and the Judgment of Hon'ble Supreme Court in the case of **Premnath Bali Vs. Registrar, High Court, Delhi & Ano., AIR 2016 SCC,101.** The learned counsel for applicant has submitted that departmental enquiry cannot be continued for years together. Hence, prayed to allow the O.A.

7. Heard Shri M.I. Khan, learned P.O. He has strongly opposed the submission and submitted that the Hon'ble Supreme Court has extended the time limit because of Covid, therefore, the departmental enquiry could not be completed. Hence, the O.A. is liable to be dismissed.

8. There is no dispute that applicant is facing departmental enquiry from the year 2015. Since last 7 years there is no progress in the departmental enquiry. The applicant has filed O.A. 958/2019 before this Tribunal. This Tribunal has passed the following order on 9/1/2020 –

“2. The Id. counsel for the applicant submitted that directions be given to the respondents to conclude the Departmental Enquiry within stipulated period

as enquiry is initiated in August, 2015, grave prejudiced is caused to the applicant. We have heard submission of Id. P.O., we think the request of the applicant is reasonable one, we, therefore, direct that the respondents shall conclude the Departmental Enquiry within a period of six months from the date of this order.

3. With the above directions, O.A. is disposed of with no order as to costs.”

9. There after the respondents have moved MCA No.04/2021. Following order was passed by this Tribunal on 12/3/2021 –

*“2. The original order was passed on 9/1/2020 and as per direction of Hon’ble Apex Court in case of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Ano.,AIR 2016 SC 101**, it was directed to complete the inquiry within six months from the date of the order and this six months period is already expired.*

3. The learned P.O. has filed MCA No.04/2021 for extension of further six months period to comply the order dated 9/1/2020. In this situation, if further six months period is granted, it will cause great prejudice to the applicant.

4. Hence, MCA No. 04/2021 stands dismissed. The respondents are directed to complete the D.E. at an earliest to avoid contempt proceeding.”

10. Even since more than 2 years, from the order dated 9/1/2020, the respondents have not completed the enquiry. This Tribunal, Bench at Aurangabad in O.A. 352/2021 relying the Judgment of Hon’ble Apex Court in case of **Premnath Bali Vs. Registrar, High Court, Delhi & Ano., AIR 2016 SCC,101** and allowed the O.A. and departmental enquiry was quashed and set aside.

11. In the case of **Premnath Bali Vs. Registrar, High Court, Delhi & Ano., AIR 2016 SCC,101**, the Hon'ble Supreme Court has observed in para nos. 31 to 33 as under –

“31) Time and again, this Court has emphasized that it is the duty of the employer to ensure that the departmental inquiry initiated against the delinquent employee is concluded within the shortest possible time by taking priority measures. In cases where the delinquent is placed under suspension during the pendency of such inquiry then it becomes all the more imperative for the employer to ensure that the inquiry is concluded in the shortest possible time to avoid any inconvenience, loss and prejudice to the rights of the delinquent employee.

32) As a matter of experience, we often notice that after completion of the inquiry, the issue involved therein does not come to an end because if the findings of the inquiry proceedings have gone against the delinquent employee, he invariably pursues the issue in Court to ventilate his grievance, which again consumes time for its final conclusion.

33) Keeping these factors in mind, we are of the considered opinion that every employer (whether State or private) must make sincere endeavor to conclude the departmental inquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time frame then efforts should be made to conclude within reasonably extended period depending upon the cause and the nature of inquiry but not more than a year.”

12. The applicant approached this Tribunal with specific directions to the respondents. This Tribunal in O.A.958/2019 vide

order dated 9/1/2020 has specifically directed the respondents to complete the departmental enquiry within a period of six months. Thereafter also the respondents not completed departmental enquiry and filed MCA No.4/2021. It was disposed off vide order dated 12/3/2021 rejecting the same. Even thereafter the respondents have not completed the departmental enquiry.

13. In view of the Judgment of Hon'ble Supreme Court in case of **Premnath Bali Vs. Registrar, High Court, Delhi & Ano., AIR 2016 SCC,101**, the departmental enquiry cannot be continued more than one year. The applicant is facing enquiry since last 7 years. In that view of the matter, the following order is passed –

ORDER

- (i) The O.A. is allowed.
- (ii) The impugned departmental enquiry initiated against the applicant as per charge sheet Annex-A-1 and A-2 is hereby quashed and set aside and he is exonerated from all the charges levelled against him.
- (iii) No order as to costs.

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

(Shree Bhagwan)
Vice-Chairman.

Dated :- 23/03/2022.

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 V.C. and Member (J).

Judgment signed on : 23/03/2022.

Uploaded on : 23/03/2022*