

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 789 of 2022 (D.B.)**

Narendra S/o Manohar Sonone,  
Aged about 50 years,  
Occupation: Service as Avval Karkun,  
R/o C/o. Tahasil Office, Risod,  
Tah. Risod, District: Washim.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary, Revenue and Forest Department,  
Mantralaya, Mumbai- 400032.
- 2) The Divisional Commissioner,  
Amravati Division, Amravati.
- 3) The Collector,  
Washim, District - Washim.
- 4) Divisional Enquiry Officer/Sub Divisional Officer,  
Washim, District- Washim.

**Respondents.**

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**Shri V.B. Gawali, Advocate for the applicant.**  
**Shri V.A. Kulkarni, learned P.O. for respondents.**

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

**Dated :- 14/09/2023.**

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

Heard Shri V.B. Gawali, learned counsel for the applicant  
and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The regular Division Bench is not available. The Hon'ble  
Chairperson, M.A.T., Principal Bench, Mumbai issued Circular  
No.MAT/MUM/JUD/469/2023,dated 24/04/2023. As per the direction

of Hon'ble Chairperson, if both the parties have consented for final disposal, then regular matter pending before the Division Bench can be disposed off finally. The matter is heard and decided finally with the consent of learned counsel for parties.

3. The learned counsel for applicant has pointed out the order passed by the Appellate Authority, i.e., Divisional Commissioner, Amravati. The punishment order was set aside by allowing the appeal. Review Petition is also dismissed on 30/08/2023.

4. The learned counsel for the applicant has pointed out the letter dated 17/04/2023 of the Residential Deputy Collector (RDC), Washim. The applicant is not promoted stating that in the departmental inquiry, he was demoted and Review is pending before the Divisional Commissioner, Amravati. This fact is not correct.

5. The documents on record are very clear. As per the order passed by the Divisional Commissioner, Amravati dated 20/02/2023, all the material facts are recorded in para-9 and 10 of the order. The Divisional Commissioner, Amravati has recorded findings that this Tribunal in O.A.No. 7907/2022 on 24/11/2022 has quashed and set aside the departmental inquiry, but intentionally the Inquiry Officer again recorded the statement on 22/12/2022. The material portion in para-9&10 of the order of the Divisional Commissioner, Amravati are reproduced below –

“९. गैरअपीलार्थी क्रमांक २ हे अपीलार्थी विरुद्ध दिनांक ०१.०१.२०१९ रोजी सुरु झालेली विभागीय चौकशी प्रलंबित ठेवल्यामुळे अपीलार्थीचे नुकसान झाले आहे. अपीलार्थी यांनी गैरअपीलार्थी यांच्या विरुद्ध महाराष्ट्र प्रशासकीय न्यायाधिकरण खंडपीठ नागपूर येथे याचिका दाखल करून, चौकशी अधिकारी हे सहा महिन्यात विभागीय चौकशीची कार्यवाही पूर्ण करित नसल्यामुळे विभागीय चौकशी खारीज करण्याची विनंती केलेली होती. त्यामुळे चौकशी अधिकारी यांनी आकसापोटी अपीलार्थी यांच्या विरुद्ध परत चौकशी करून दि. २२.१२.२०२२ रोजी प्रकरणातील साक्षीदारांना बोलावून त्यांचे बयाण घेतले आहे.

१०. विभागीय चौकशी प्रकरणात एकंदरीत चार साक्षीदारांची साक्ष नोंदविण्यात आली आहे. त्यापैकी श्री. बी.एस. मोरे, सेवानिवृत्त अव्वल कारकुन यांनी त्यांच्या साक्षमध्ये नमुद केले की ते दिनांक ३०.०६.२०१८ रोजी सेवानिवृत्त झाल्यामुळे त्यांना अपीलार्थी यांच्या कामकाजाबाबत माहिती नाही. त्यामुळे त्यांचे नाव साक्षेतून वगळण्यात यावे. साक्षीदार क्रमांक २ कु. व्ही. एम. जगाळे, अव्वल कारकुन पुनर्वसन जिल्हा कार्यालय, वाशीम यांनी त्यांच्या साक्षमध्ये स्पष्ट नमुद केले आहे की अपीलार्थी यांनी अव्वल कारकुन म्हणून पुनर्वसन विभागात त्यांची जबाबदारी चांगली पार पाडली आहे. त्याचप्रमाणे ते आजारी असल्यामुळे त्यांचा पदभार क्रमांक २ यांच्याकडे देण्यात आला आहे. साक्षीदार क्रमांक ३ कु.पी.एच. राठोड यांनी त्यांच्या साक्षेत नमुद केले आहे की त्यांना अपीलार्थी यांच्या कामकाजाबाबत माहिती नसल्यामुळे कामे विहित मुदतीत झाली हे सांगणे शक्य नसल्याचे कळविले आहे. साक्षीदार क्रमांक ४ श्री. जी.एस. डावरे यांचा पुनर्वसनच्या शाखेशी कोणताही संबंध नाही, तसेच त्यांच्या अधिनस्त कोणतेही कामकाज केले नसल्याबाबत कळविले आहे. पुनर्वसन विभागात काम करत असताना उपजिल्हाधिकारी पुनर्वसन यांनी अपीलार्थी यांचे बाजूने कामाचे मुल्यमापन अहवाल सादर केलेला आहे. ही बाब चौकशी अधिकारी यांनी पाहिलेली नाही.”

6. From the reading of above findings of the Divisional Commissioner, Amravati it appears that the applicant was wrongly punished by the Collector, Washim. Four witnesses were examined, but none of the witnesses have stated against the applicant, therefore, the order of the Collector is set aside by the Divisional Commissioner, Amravati. The order dated 20/02/2023 of the Divisional Commissioner, Amravati clearly shows that intentionally and malafidely the applicant

was demoted. By recording such findings the Divisional Commissioner, Amravati allowed the appeal of the applicant by order dated 20/02/2023. The said order was challenged in review. The said Review Application was also dismissed by the Divisional Commissioner, Amravati on 30/08/2023. The copy of Review order is on record at page no.65.

7. From the perusal of letter dated 17/04/2023 (P-70), the respondents have not promoted the applicant on the ground that the Review Application is pending, in fact the Review Application is rejected by the Divisional Commissioner, Amravati on 30/08/2023. Now it is clear that the applicant is exonerated from all the charges levelled against him. Therefore, it cannot be a ground to deny him promotion. Hence, the following order –

**ORDER**

- (i) The O.A. is partly allowed.
- (ii) The respondents are directed to consider the name of applicant for promotion in the coming D.P.C. meeting, if he is eligible.
- (iii) No order as to costs.

**Dated** :- 14/09/2023.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

\*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 Vice Chairman.

Judgment signed on : 14/09/2023.