

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 918 OF 2014

DISTRICT : MUMBAI

Smt Jyoti Janardhan Tandel)
Working as Assistant Rationing)
Officer, in the Rationing Office,)
Goregaon [W], Mumbai.)
R/o: A/P. Arnala, Bandarpada,)
Tal-Vasai, Dist-Thane.)
Add for service of notice :)
Shri A.V Bandiwadekar,)
Advocate for the Applicant,)
Having office at 9, "Ram Kripa",)
Lt Dilip Gupte Marg, Mahim,)
Mumbai 400 016.)...**Applicant**

Versus

1. The Controller of Rationing,)
and Director of Civil Supply,)
Mumbai, having office at)

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- Royal Insurance Building,)
 5th floor, Churchgate,)
 Mumbai 400 020.)
2. The State of Maharashtra,)
 Through Principal Secretary,)
 Food, Civil Supplies and)
 Consumer Protection Dept,)
 Mantralaya, Mumbai 400 032.)...**Respondents**

Shri B.A Bandiwadekar, learned advocate for the Applicant.

Shri A.J Chougule, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 08.01.2016

ORDER

1. Heard Shri B.A Bandiwadekar, learned advocate for the Applicant and Shri A.J Chougule, learned Presenting Officer for the Respondents


2. This Original Application has been filed by the Applicant challenging the order of the Respondent no. 1 imposing minor penalty of stoppage of one increment for

one year affecting future increments and the order dated 3.4.2014 passed by the Respondent no. 2 confirming the order in appeal.

3. Learned Counsel for the Applicant argued that the Applicant was working as Rationing Inspector at Rationing Office at Malad, from January 2001 to October, 2003. A D.E was started against the Applicant for misconduct during this period by order dated 28.10.2005. Supplementary charge sheet was issued on 31.7.2006. In the D.E, the Enquiry Officer held the Applicant guilty of all charges. By impugned order dated 3.8.2011, minor penalty of stoppage of one increment affecting future increments was imposed on the Applicant. The Respondent no. 2 dismissed the appeal of the Applicant by order dated 3.4.2014. Learned Counsel for the Applicant contended that the order of the Respondent no. 1 dated 3.8.2011 is a cryptic order and has been passed without consideration of the contentions raised by the Applicant in the D.E and especially the reply to the final show cause notice. There is no reasoning as to why the punishment is being imposed on the Applicant. Learned Counsel for the Applicant relied upon the judgments of this Tribunal dated 13.7.2015 in O.A no 1/2014 and dated 14.2.2007 in O.A no 564/2006.

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4. Learned Presenting Officer (P.O) argued on behalf of the Respondents that a Departmental Enquiry was held against the Applicant, for which a charge sheet was issued to her on 28.10.2005. A supplementary charge sheet was issued to her on 31.7.2006. Full opportunity was given to the Applicant in the aforesaid D.E to defend herself. She was allowed to cross-examine the witnesses. The Enquiry Officer (E.O) submitted his report on 9.2.2010 and found that all the charges were fully proved against the Applicant. Charges against the Applicant were, inter alia, that she was responsible for issuance of 7 bogus ration card and that she did not scrutinize the application forms for issuance of new ration cards with due care and diligence. By notice dated 30.4.2010, the Applicant was informed that the Respondent no. 1 had tentatively accepted the report of the Enquiry Officer and the Applicant was given opportunity to have her say. After considering the reply given by the Applicant, order of punishment dated 3.8.2011 was passed by the Respondent no. 1. The Applicant was given personal hearing by the Respondent no. 2 in appeal and a reasoned order dated 3.4.2014 is passed by him. Learned Presenting Officer argued that the Applicant has not been able to point out any shortcoming in the conduct of the D.E against her. The judgments cited by the Applicants are not applicable in the facts of the present case.



5. The report of Enquiry Officer dated 9.2.2010 reveals that the Applicant was allowed to engage 'defence Assistant' in the D.E and she availed herself of the opportunity to cross examine all the witnesses. Enquiry Officer found that the Applicant was responsible for issuance of 7 bogus ration cards. While scrutinizing the applications of these ration cards, the Applicant did not follow instructions contained in various Government Resolutions, and the Maharashtra Food Grains Rationing (Second) Regulation Act, 1966. The Applicant also recommended grant of ration cards in two cases, where the applicant had not even signed the application forms. There were other charges which were held proved, which showed that the Applicant was remiss in discharge of her official duties. The Respondent no. 1 tentatively agreed with the findings of the Enquiry Officer and a final show cause notice was issued to the Applicant and after consideration of her reply, the order of punishment was passed on 3.8.2011 by the Respondent no. 1. It is seen that the D.E does not suffer from any procedural irregularity. The Enquiry Officer has submitted a detailed report after considering the evidence before him including the submission of the Applicant. The Respondent no. 1 in the impugned order has stated that she fully agreed with the findings of the Enquiry Officer that all the charges were proved against the Applicant. Similarly, the Respondent no. 2 gave personal hearing to



the Applicant and after considering her submissions passed the order in appeal.

6. The Applicant has relied on the following judgments of this Tribunal, viz:-

(i) O.A no 1 of 2014 dated 13.7.2015.

In that case, a final show cause notice was not served, before the order imposing punishment was passed. Also, the enquiry report was held to be casual and findings perverse. In the present case, a final show cause notice was given to the Applicant on 30.4.2010, which clearly mentioned that the Respondent no. 1 was in agreement with the findings of the Enquiry Officer. Of course, such agreement was tentative, as the Applicant was given opportunity to assail the Enquiry Report. On perusal of Enquiry Report in the present case, I am of the opinion that it is based on full appraisal of evidence which was tendered in the D.E and the submissions made by the Applicant were also considered. It cannot be said to be 'perverse' or 'casual'. The facts are quite different in the present case.

(ii) O.A no 564 of 2006 dated 14.2.2007. In this judgment, this Tribunal has observed that:-

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“Besides obtaining the reply to the charge sheet, no other opportunity seems to have been given to the applicant.”

In the present case, the Applicant was given full opportunity to defend himself. She appointed a ‘defence Assistant’, was allowed to cross examine witnesses and also allowed to give final defence statement. The facts are quite different in the present case, and this judgment is not applicable.

7. It is seen that the order against the Applicant is passed by the proper authority, there is no procedural irregularity and it cannot be said that there was no evidence against the Applicant. The Applicant’s claim appear to be that she was not required to be diligent while processing applications for grant of ration card. In fact as a Rationing Inspector, it was expected from her that she will exercise due diligence to ensure that no bogus ration card were issued, which she clearly failed to do.

8. The Applicant has raised the issue that a joint D.E along with other persons should have been held. However, when the D.E against her does not suffer from any irregularity, the fact that a joint D.E was not held cannot be said to have caused any prejudice to the Applicant and this contention does not have any validity.

9. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai

Date : 08.01.2015

Dictation taken by : A.K. Nair.