

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.934 OF 2015

WITH

ORIGINAL APPLICATION NO.935 OF 2015

Smt. Ashwini Ashok Kshirsgar,)
 Aged 58 years, Occ. Nil, (Retd. as Joint)
 District Registrar, Class-II),)
 Having office at 5, Finance Road,)
 Photo Registry Compound,)
 Pune 1.)
 R/o. Surbhi Prestige, Kasaba Peth,)
 Pune -11)
Address for Service of Notice :)
 R/o. Surbhi Prestige, Kasaba Peth,)
 Pune -11.) **...Applicant**

Versus

1. The Inspector General of Registration)
 and Controller of Stamps, (M.S.),)
 Pune, Having office at Old Council Hall,)
 Pune 1.)

[Handwritten signature]

2. The State of Maharashtra,)
Through Principal Secretary,)
(Rehabilitation and Special Assistance),)
Revenue & Forest Department,)
Having office at Mantralaya,)
Mumbai 400 032)

..Respondents

Shri A.V. Bandiwadekar, learned Counsel for the Applicant.

Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : SHRI RAJIV AGARWAL, VICE-CHAIRMAN

SHRI R.B. MALIK, MEMBER(J)

DATE : 25.02.2016.

PER : SHRI RAJIV AGARWAL, VICE-CHAIRMAN

J U D G M E N T

1. Heard Shri A.V. Bandiwadekar, learned Counsel for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. These Original Applications were heard together and are being disposed off by a common order as the same Applicant has challenged two Departmental Enquires which are pending against her.

3. The Applicant is challenging charge sheets issued to her on 09.09.2004 (O.A.No.934/2015) and 07.03.2009 (O.A.No.935/2015) based on the judgment of Hon'ble Supreme Court reported in A.I.R. 1998 SC 1833. In the alternative the Applicant is praying that the directions may be issued to the Respondents to complete the Departmental Enquiries within stipulated time.

4. It is seen that a Department Enquiry was started against the Applicant (O.A.No.934/2015) by order dated 09.02.2004. The inquiry was started for alleged misconduct of the Applicant during the period from 11.09.2000 to 09.12.2000 and 25.04.2001 to 27.08.2001 when the applicant was working as Sub-Registrar No.9, Haveli, District Pune. It is alleged that she caused a loss of Rs.3,41,214/- to the Government. In O.A.No.935/2015, the Departmental Enquiry was started against the Applicant on 07.03.2009, for alleged misconduct during the year 2007 when she was working as Sub-Registrar, Grade I, Lonavala. Learned Counsel for the Applicant argued that there has been no progress in either of the two Departmental Enquiries though one was started in



2004 and the other was started in 2009. The Applicant has since retired on reaching the age of superannuation on 31.08.2015. Learned Counsel for the Applicant contended that the case of **State of Andhra Pradesh Vs. Radhakrishan, reported in A.I.R. 1998 SC 1833**, Hon'ble Supreme Court has quashed charge memo, as the incident was over 10 years old and no explanation was forthcoming for the delay in conducting the Departmental Enquiry (D.E.). The delinquent had not contributed to delay in that case. Learned Counsel for the Applicant argued that the charge-sheet was issued to the Applicant on 09.09.2004 for the incidents which happened in 2000 and 2001. Even after lapse of 15 years, the D.E. has not been completed. The other D.E. was started on 07.03.2009 relating to incident in 2007. That D.E. has also not made any progress though 8 years have elapsed. Learned Counsel for the Applicant argued that the Respondents are not serious in pursuing the D.E.'s against the Applicant, who is not responsible for delay in completion of D.E.'s. Considering the facts, both the D.E.'s are liable to be quashed in the light of the judgment of Hon'ble Supreme Court quoted hereinabove. In the alternative, learned Counsel for the Applicant argued that the Respondents may be directed to complete the D.E.'s within a stipulated time period, failing which the same may stand quashed automatically. Learned Counsel for the Applicant cited the judgment of this Tribunal

dated 26.08.2015 in O.A.No.41/2014 wherein D.E.'s which were continued after superannuation were quashed for failure to adhere to Rule 27 of the Maharashtra Civil Services (Pension) Rules, 1982.

5. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant herself was responsible for delay caused in conclusion of the D.E.s. She is now trying to take advantage of this delay to avoid punishment. Learned P.O. argued that the D.E. started on 09.09.2004 would be completed within four months by the Enquiry Officer. In the other D.E., the Enquiry Officer will submit final report shortly. Learned P.O. assured that both the D.E.'s will be concluded as early as possible and considering the facts that the Applicant was herself responsible for delay in conclusion of D.E.'s her case is not covered by the judgment of Hon'ble Supreme Court in Radhakrishan's case (supra).

6. We find that the Respondents have filed affidavit-in-reply on 01.01.2016 in both the Original Applications. In O.A.No.934/2015, it is stated in paragraph 6 & 7 that :-

"6. I say that Respondent No.1 and 2 takes strong objection to filing of the present O.A. that the Applicant has filed the present O.A. without observing that the Applicant herself is responsible for the delay caused for conclusion of Departmental Enquiry and now takes



advantage of such delay to avoid punishment hence the O.A. deserves to be dismissed.

7. I say that, Respondent No.1 and 2 submits that Enquiry Officer Shri Kale assured to conclude the proceedings within the period of 4 months and requested to the Applicant to co-operate in the said proceedings.”

In O.A.No.935 of 2015, it is stated in paras 7 & 8 that :

“7. I say that, Respondent No.1, and 2 takes strong objection to the filing of the present O.A. that the Applicant has filed the present O.A. without observing that the fact that Applicant herself also was responsible for the delay caused for conclusion of Departmental Enquiry and now takes advantage of such delay to avoid punishment, hence the O.A. deserves to be dismissed.

8. I say that, after the first Enquiry Officer informed his inability to conduct the enquiry Respondent No.1 by order dated 1/03/2011 appointed Joint District Registrar Class I, Pune City as Enquiry Officer in this matter. Enquiry Officer Joint District Registrar Class I, Pune City Mrs. Nilima Dhygude had initiated the enquiry proceedings and the enquiry was brought to the final stage.

Hence at this stage when all the enquiry is completed and now final report has to be issued within short time it cannot be set aside.”

7. It is seen that the Applicant has not filed any affidavit-in-rejoinder denying these contentions. However, to be fair to her, she has made alternate prayer that both the D.E.'s may be completed against her within a stipulated time. We are inclined to accept the alternated prayer of the Applicant in both the O.A.s. As in the affidavit-in-reply filed on 01.01.2016, the Respondents have indicated that report of the E.O. will be received in 4 months. Thereafter, it should be possible for the Respondents to complete the D.E. in all respects within a further period of 2 months. We, therefore, direct the Respondents to complete both the D.E.'s in all respects before 30.06.2016. No further time will be granted to complete D.E.'s after that. Needless to say that the Applicant will fully cooperate in completion of the D.E.'s and, if any, delay in completion of D.E.'s is found attributable to her, the time to complete D.E.'s will get extended by that period.

8. These O.A.s are disposed off in above terms with no order as to costs.

Sd/-

(R.B. MALIK) 25.2.16
MEMBER(J)

Sd/-

(RAJIV AGARWAL)
VICE-CHAIRMAN

Place : Mumbai
Date : 25.02.2016
Typed by : PRK