

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 562 OF 2014

DISTRICT : - NANDED.

Mahadeo S/o. Bhagaji Khandare,

Age: 58, Occu: Pensioner,
R/o Sitakunj, Patil Nagar,
Umarkhed, Tq. Umarkhed,
Dist. Yavatmal.

.. APPLICANT.

V E R S U S

1. **The Regional Departmental Enquiry**

Officer, 03rd Floor, Collector's Office,
Aurangabad, Tq. & Dist. Aurangabad.
[Copy to be served through Presenting
Officer, Maharashtra Administrative
Tribunal, Mumbai bench at
Aurangabad.)

2. **The Education Officer (Primary),**

Zilla Parishad, Nanded,
Tq. & Dist. Nanded,

.. RESPONDENTS.

APPEARANCE : Ms. Amruta Paranjape, learned
Advocate holding for Shri P.S.
Paranjape for the Applicant.

: Smt. Sanjivani Deshmukh-Ghate –
learned Presenting Officer for the
respondents.

CORAM : **HON'BLE SHRI RAJIV AGARWAL,**
VICE CHAIRMAN (A).
AND
: **HON'BLE SHRI B.P. PATIL,**
MEMBER (J)

DATE : **17TH FEBRUARY, 2017.**

O R A L O R D E R

[Per : Hon'ble Shri Rajiv Agarwal, Vice Chairman (A)]

1. Heard Ms. Amruta Paranjape, learned Advocate holding for Shri P.S. Paranjape, learned Advocate for the Applicant and Smt. Sanjivani Deshmukh-Ghate – learned Presenting Officer for the respondents.

2. This Original Application has been filed by the Applicant challenging initiation of Departmental Enquiry, which was started against the applicant in the year 2013. Learned Advocate for the Applicant stated that a criminal case was also filed against the applicant on the same charges. Witnesses were also same in the Departmental Enquiry and the criminal case. The Applicant has since been acquitted in the criminal case by the learned Special

Judge (ACB, NANDED) by an order dated 1st August, 2015. The Applicant was suspended when the criminal case was started, but he was reinstated in service and retired on superannuation on 30th June, 2014. Though he was acquitted in the criminal case, the respondents are persisting with the departmental enquiry against the Applicant. There are various judgments of Hon'ble Supreme Court, wherein it has been held that if the delinquent Government servant has given clean acquittal and charges in the criminal case and the Departmental Enquiry are identical, the Departmental Enquiry cannot survive. Learned Advocate for the Applicant, therefore, prayed that the Departmental Enquiry may be quashed.

3. Learned Presenting Officer stated that the charges in the Departmental Enquiry are not identical with the charges in the criminal case though the applicant has been acquitted in the criminal case, Hon'ble Supreme Court in the case of **CAPT. M. PAUL ANTHONY VS. BHARAT GOLD MINES LTD. & ANR.** has held that the

Departmental Enquiry can be held along with trial in the criminal case. She also submitted that the Enquiry Officer has submitted his report to the disciplinary authority on 16.10.2014. As such, it is too late to quash the departmental enquiry.

4. We find that the proceedings of the Departmental Enquiry in so far as the report of the Enquiry Officer is concerned, have been completed. However, disciplinary authority, for reasons not very clear, has not taken any decision on the report of the Departmental Enquiry though the period of more than two years has been elapsed. As the Applicant has already retired on superannuation almost three years back and because of the pendency of the Departmental Enquiry the Applicant is not getting full pensionary dues and the issue of regularization of suspension period is also yet to be resolved.

5. Considering all the above facts, we are of the opinion that this Original Application can be disposed of with the

directions to the respondents to complete the Departmental Enquiry in all respect including issuance of the final order within a period of three months from the date of this order. If no decision is taken during this period, the Departmental Enquiry against the Applicant will stand quashed without further reference to this Tribunal.

6. Learned Presenting Officer is requested to inform the disciplinary authority about the decision of this Tribunal urgently, if possible by mode of E.mail.

7. Accordingly, the present Original Application stands disposed of with no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)