

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 621 OF 2022  
(Subject:- Show Cause Notice/Increment)**

**DISTRICT:-AURANGABAD**

**Dattatray Ambadas Kakade** )  
Age – 38 years, Occ.: service (Agri. Assistant), )  
R/o. Post Pategaon, Tq. Paithan )  
Dist. Aurangabad )  
Mob:- 9766582309 ) **APPLICANT**

**V E R S U S**

- 1. The State of Maharashtra** )  
Through, it's Secretary, )  
Agriculture Department, )  
Mantralaya, Mumbai - 32. )
- 2. The Agriculture Commissioner,** )  
Commissionrate of Agriculture M.S. )  
Central Building, 3<sup>rd</sup> Floor, )  
Pune-411 001. )
- 3. The Divisional Jt. Director of Agriculture,** )  
Agriculture Office, Kranti Chowk, )  
Kotla colony, Samata Nagar, )  
Aurangabad -431005. )
- 4. Taluka Agricultural Officer,** )  
Agriculture Office, Paithan )  
Tq. Paithan, Dist.- Aurangabad. )  
**)RESPONDENTS**

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**APPEARANCE** : Ms. P.C. Kale, learned counsel for the  
applicant.  
: Shri D.M. Hange, learned Presenting  
Officer for the respondent authorities.  
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**CORAM** : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

**DATE** : **04.03.2024.**  
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### **ORAL - ORDER**

Heard Ms. P.C. Kale, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities finally at the stage of admission hearing.

2. By filing this Original Application the applicant is challenging the legality and validity of the impugned order passed by respondent No.3 dated 10.12.2020 thereby imposing minor punishment of stoppage of one increment temporarily without affecting further increments.

3. Facts in brief as stated by the applicant giving rise to the Original Application are as follows :-

(i) The applicant is working as Agriculture Assistant at Taluka Agriculture Office, Paithan, Dist. Aurangabad. On 08.03.2010, he was appointed as a Krushi Sevak by the Divisional Jt. Director of Agriculture, Nashik and thereafter on 28.08.2014, he was promoted as a Agriculture Assistant.

(ii) It is the further case of the applicant that in the month of September or October, 2020 due to heavy rain fall farmers suffered heavy loss. During that period the applicant had given responsibility of verification of the damage caused to the crop within his jurisdiction. On 12.11.2020, the respondent No.3 issued show cause notice to the applicant. The applicant has also submitted reply to the said show cause notice. However, the respondent No.3 without making any inquiry or investigation, issued communication/letter dated 10.12.2020 with order of stoppage of one increment temporarily without affecting further increments. Hence, this Original Application.

4. Learned counsel for the applicant submits that the order passed by the respondent No.3 is perverse and erroneous. Learned counsel for the applicant submits that for inflicting the minor punishment, the procedure is prescribed in Rule 10 of Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (hereinafter referred to as "Rules, 1979"). Learned counsel for the applicant submits that in terms of Clause (a) of Rule 10 (1) of Rules, 1979, a reasonable opportunity is necessary to be given to the delinquent and in terms of Clause (c) of Rule 10(1) of Rules,

1979, such explanation/representation submitted, if any, by the Government servant under Clause (a) is required to be considered by the Disciplinary Authority. Learned counsel for the applicant submits that in the instant case the Disciplinary Authority has not considered the explanation submitted by the applicant which runs into more than 10 pages and only in two lines stated in the impugned order that the explanation submitted by the applicant is not satisfactory.

5. Learned counsel for the applicant submits that in terms of Clause (b) of Rule 10 (1), holding an inquiry in the manner laid down in Rule 8, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary, however, the Disciplinary authority has neither followed the said procedure nor followed the procedure prescribed under Clauses (a), (c) and (d) of Rule 10 (1) of Rules, 1979. Learned counsel for the applicant in order to substantiate his contention placed reliance in a case of **Union of India and Ors. Vs. C.P. Singh, Writ Petition No. 5685/2001** decided on 02.09.2004.

6. Learned Presenting Officer submits that the applicant has preferred the departmental appeal which is still

pending and the applicant is suppressed this material fact in the Original Application. The applicant has accepted the fact of filing of departmental appeal and pendency thereof only after reply is submitted by the respondents. Learned P.O. submits that the said appeal is still pending and the appellate authority may decide the said appeal if directed to decide in a time bound manner.

7. Learned counsel for the applicant submits that in terms of Section 20 Sub Clause (b) of Administrative Tribunal Act, 1985 if no order has been passed by the appellate authority within six months in the pending appeal then the applicant may approach the Tribunal.

8. In the instant case the appeal was preferred on 28.10.2021 and after waiting for more than 6 months in the month of June, 2022 the applicant has approached this Tribunal. Learned counsel for the applicant submits that till today the appellate authority has not bothered to decide the appeal.

9. Learned Presenting Officer submits that the respondent No.3 while passing the impugned order has considered the explanation submitted by the applicant and

the same has been reflected from the order. Learned P.O. submits that there is no substance in the Original Application and the same is liable to be dismissed with costs.

10. It is true that under Rule 10 of Rules, 1979 the procedure is prescribed for inflicting the minor punishment.

The said Rule 10 of Rules, 1979 reads as under:-

***“10. Procedure for imposing minor penalties.- (1) Save as provided in sub-rule (3) of Rule 9, no order imposing on a Government servant any of the minor penalties shall be made except after.-***

- (a) informing the Government servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehavior on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;*
- (b) holding an inquiry in the manner laid down in Rule 8, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;*
- (c) taking into consideration the representation, if any, submitted by the Government servant under Clause (a) of this rule and the record of inquiry, if any, held under Clause (b) of this rule;*
- (d) recording a finding on each imputation of misconduct or misbehavior; and*
- (e) consulting the Commission, where such consultation is necessary.”*

11. In the instant case though the Disciplinary Authority has given reasonable opportunity to the applicant, however, failed to record the reasons. The applicant has

submitted explanation which runs into more than 10 pages and almost denied the allegations made against him. However, there is no reference to the points raised by the applicant in the impugned order nor any specific reasoning to the extent of relevant points raised by the applicant. Consequently, the procedure prescribed in Rule 10 of Rules, 1979 has not been followed by the Disciplinary Authority in its letter and spirit.

12. In a case of **Union of India and Ors. Vs. C.P. Singh**, the Hon'ble High Court of Madhya Pradesh (Jabalpur Bench) has referred and relied upon the views taken by the Hon'ble Supreme Court. Though the said observations are in connection with Rule 8 which speaks about the procedure contemplated for conducting enquiry, for imposing major penalties, however, the principle as laid down by the Hon'ble Supreme Court is equally applicable to the instant case. The Disciplinary Authority must apply its mind to the facts and circumstances of the case as disclosed by the delinquent and give a reasonable finding for coming to a decision. It is also apparent to note that if the charges are factual and denied by the delinquent employee, an enquiry should also be called for.

13. In the instant case there are certain allegations made against the applicant about his absence in the meeting specially arranged for taking review of the damage caused to the crop due to heavy rain fall. There are also allegations against the applicant about pressurizing the officers and violating the secrecy of the procedure. It was also stated in the show cause notice that his entire approach in discharging his duties is irresponsible and work avoiding nature. The applicant has submitted his detailed explanation and denied all the charges levelled against him. The Disciplinary Authority has rightly applied the procedure prescribed for inflicting the minor punishment in terms of the allegations made against the applicant by way of issuance of show cause notice, however, the Disciplinary Authority also bound to record the reasons after taking into consideration the grounds raised by the applicant in his explanation. The same appears to be lacking in the present case.

14. Though the learned counsel for the applicant has vehemently argued by referring the grounds raised by the applicant in his explanation, however, the Tribunal cannot consider the said explanation in the light of the allegations



made by way of show cause notice given to the applicant. It is also equally important that if the said punishment though minor in nature, if quashed and set aside, then the allegations made against the applicant by way of show cause notice and explanation submitted by the applicant to the extent of allegations made in the show cause notice will remain as unattained and in view of same, the Tribunal has left with no other choice but to remand the matter to the Disciplinary Authority to decide the said enquiry in terms of Provisions of Rule 10 of Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. The Disciplinary Authority has already given the notice and the applicant has also submitted his explanation. Thus the said enquiry would begin afresh from that stage and not earlier to that and respondent No.3 shall pass the appropriate order in accordance with law and with due regard to observations made in this order as expeditiously as possible preferably within the period of two months from the date of this order. Hence, the following order:-

**ORDER**

(A) The Original Application is partly allowed.

- (B) The impugned order dated 10.12.2020 issued by respondent No.3 is hereby quashed and set aside with the following direction:-

The respondent No.3 shall pass the appropriate order afresh in connection with the said enquiry in terms of provisions of Rule 10 of Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 from the stage of submission of explanation by affording an opportunity of hearing to the applicant as expeditiously as possible preferably within the period of two months from the date of this order.

- (C) In the circumstances, there shall be no order as to costs.
- (D) The Original Application stands disposed of.

**MEMBER (J)**