

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 949 of 2021 (DB)**

Yogiraj S/o Sheshrao Jumde,  
Aged 54 years, Occ. At Present Nil,  
R/o Plot No. 119, Jawahar Nagar,  
4<sup>th</sup> Lane, Near Tukdoji Square,  
Manewada Road, Nagpur-440024.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Principal Secretary,  
Agricultural, Animal Husbandry  
and Dairy and Fishery Development,  
Mantralaya, Mumbai-32.
- 2) The Commissioner (Agriculture),  
Having its office at Central Building,  
Near Railway Station,  
Pune-01.
- 3) The Divisional Joint Director of Agriculture,  
Nagpur Division,  
Having its office at Administrative  
Building No. 2, Civil Lines, Nagpur.

**Respondents.**

---

**Shri S.P.Palshikar, Ld. counsel for the applicant.**

**Shri V.A.Kulkarni, ld. P.O. for the respondents.**

---

**Coram :- Shri Shree Bhagwan, Vice-Chairman and  
Shri M.A. Lovekar, Member (J).**

---

**Date of Reserving for Judgment : 08<sup>th</sup> August, 2022.**

**Date of Pronouncement of Judgment: 12<sup>th</sup> August, 2022.**

**JUDGMENT**

**Per : Member (I).**

**(Delivered on this 12<sup>th</sup> day of August, 2022)**

Heard Shri S.P.Palshikar, ld. Counsel for the applicant and Shri V.A.Kulkarni, ld. P.O. for the respondents.

2. Case of the applicant is as follows. By order dated 25.03.1994 (A-1) the applicant was appointed as Agriculture Officer through M.P.S.C. He joined at Risod on 20.06.1994. His probation period was of two years. Within this period he was required to pass Departmental Account Examination for getting confirmed. On the first occasion he did not receive Hall Ticket. On the second occasion illness prevented him for appearing in the examination. In spite of his failure to clear the examination within the stipulated period, his probation was not extended. He continued to serve without break though under Rule 11 of Agriculture, Animal Husbandry, Dairy Development and Fisheries Department Recruitment Rules, 2010 (A-3) his services could have been terminated on account of his failure to clear the departmental examination within the stipulated period. By order dated 04.07.2009 (A-2) he was promoted as Campaign Officer. His name was cleared for this promotion by the D.P.C.. He worked satisfactorily on the promotional posts as well. Respondent no. 1, by order dated 12.10.2021 (A-4) terminated his services without giving him a show cause notice. The reason given for termination of services was that he had not cleared the Departmental Account Examination as per Rules of 2010. The order dated

12.10.2021 also referred to Circular dated 20.06.1981 (A-5) and G.R. of G.A.D. dated 07.03.1983 (A-6). Probation of the applicant was not extended. He worked continuously without break. On recommendation of the D.P.C. he was promoted. On the basis of these circumstances he can be deemed to have been confirmed as a Government Servant. Thus, order of his termination after continuous, uninterrupted service of more than 27 years cannot be sustained. One Shri A.B.Bhalerao whose case was similar to that of the applicant was treated differently as can be gathered from the contents of the letter dated 24.05.2021 (A-8). The order dated 12.10.2021 which is impugned in this O.A. is bad on many grounds - The primary ground being that it violates a cardinal principle of natural justice as no prior opportunity of hearing was given to the applicant. Therefore, the same deserves to be quashed and set aside with a direction to the respondents to grant all consequential benefits to the applicant. Hence, this application.

3. In their reply at P.P. 52 to 56 the respondents have defended sustainability of the impugned order by relying *inter alia* on the Department State Service Officers (Accounts Examination) Rules, 1981 (A-R-1).

4. It is not in dispute that the applicant was required to clear the Departmental Account Examination within the period of his probation, he

did not do so, he was neither confirmed nor was his probation extended, he continued to work without break, in the year 2009 on recommendation of the D.P.C. he was promoted and after serving for more than 27 years he was served with the impugned order which was not preceded by reasonable opportunity of hearing.

5. In G.R. dated 25.03.1994 (A-1) by which the applicant was appointed, Clause 5 stipulated as follows-

“नामनिर्देशनाने नियुक्त अधिका-यांने त्यांच्या परिविक्षा कालावधीत कृषि विभागातील राजपत्रित अधिका-यांकरिता विहित केलेली सेवा प्रदेशोत्तर विभागीय लेखा परीक्षा तसेच नियमानुसार मराठी व हिंदी परीक्षा उत्तीर्ण करणे आवश्यक आहे. तसेच परिविक्षा कालावधी समाधानकारकरित्या पूर्ण न केल्यास आणि किंवा त्यांची वर्तणूक अयोग्य अथवा अनुचित आढळल्यास त्यांच्या/ त्यांची सेवा समाप्त करण्यात येतील/येईल.”

6. Rule 11 in notification dated 15.06.2011 (A-3) lays down:-

“११. नियम ६, ७ व ८ मध्ये नमूद केलेल्या पदांवर नामनिर्देशनांने नियुक्ती केलेली व्यक्ती, दोन वर्षांच्या कालावधीकरिता परिविक्षाधीन असेल, परीक्षेचा कालावधी, केवळ (कमाल) एक वर्षापर्यंत वाढविता येईल. त्याला/तिला, विहित केलेल्या कालावधीत विभागीय परीक्षा उत्तीर्ण करणे आणि यशस्वीपणे परिविक्षाकाल पूर्ण करणे आवश्यक असेल. त्याला/तिला यशस्वीपणे परिविक्षा काल पूर्ण करता आला नाही किंवा करारनिविष्ट कालावधीत अथवा संधीमध्ये विभागीय परीक्षा उत्तीर्ण करता आली नाही किंवा पदासाठी उचित नसल्यांचे आढळून आले तर तो/ती पूर्व सूचना न देता, सेवा समाप्त करण्यास पात्र ठरेल.”

7. The impugned order (A-4) states –

“३. महाराष्ट्र कृषि सेवा (सेवाप्रवेश) नियम, २०१० च्या नियम ११ नुसार महाराष्ट्र कृषि सेवा गट-ब (कनिष्ठ) या पदावर नियुक्त केलेली व्यक्ती दोन वर्षांच्या कालावधीकरिता परिविक्षाधीन असेल. परिविक्षा कालावधी, केवळ (कमाल) एक वर्षांपर्यंत वाढविता येईल त्यांना विहित केलेल्या कालावधीत विभागीय परीक्षा उत्तीर्ण करणे आणि यशस्वीपणे परिविक्षाकाला पूर्ण करणे संबंधित अधिका-यास आवश्यक असेल. अशा अधिका-यास त्यांना यशस्वीपणे परिविक्षाकाल पूर्ण करता आला नाही किंवा करारनिविष्ट कालावधी अथवा संधीमध्ये विभागीय परीक्षा उत्तीर्ण करता आली नाही तर तो पुर्व सुचना न देता, सेवा समाप्त करण्यास पात्र ठरेल.

४. शासन अधिसूचना, कृषि व पदुम विभाग दिनांक ३०/०६/१९८१ मधील नियम ५(२) मधील तरतुदीनुसार विहित संधी व मुदतीत विभागीय लेखा परीक्षा उत्तीर्ण न झालेल्या नामनिर्देशनाने नियुक्त अधिका-यांच्या सेवा समाप्त करणे आवश्यक आहे.

५. तसेच, सामान्य प्रशासन विभाग, शासन निर्णय दिनांक ०७/०३/१९८३ मध्ये नमुद केल्यानुसार परिविक्षाधीन अधिका-याने विहित विभागीय परीक्षा, परिविक्षाधीन कालावधीमध्ये उत्तीर्ण न केल्यास तो सेवेतून कमी करण्यास पात्र ठरेल.”

8. Relevant provisions of ‘The Agriculture Department State Service Officers (Accounts Examination) Rules, 1981’ are as follows:-

“3. *Necessity of passing the examination-*

*Subject to the provisions of these rules, every State Service Officer whether appointed by promotion or by nomination and whether appointed before or after the appointed date shall be required to pass the examination according to the provisions of these rules.*

4. *Period for passing examination (1) Every State Service Officer whether appointed by promotion or by nomination after the appointed date shall be required to pass the examination within a period of 2 years from the date of his appointment.*

5. *Consequences of failure to pass the examination:-*

i) *No State Officer shall be confirmed unless he passes the examination or has been exempted from passing the examination under rule 6.*

ii) *A State Service Officer who fails to pass the examination within the period and chances allowed in accordance with the provisions of rule 4 shall be liable to be:-*

a) *reverted to the lower post if he is appointed by promotion or.*

b) *discharged from service if he is appointed by nomination."*

9. Para 2 of the G.R. dated 07.03.1983 states:-

“शासन पुढे असाही आदेश देत आहे की, परीक्षा कालावधीवर नियुक्त करण्यात येणा-या अधिका-याच्या नेमणूकीच्या आदेशात असा स्पष्ट उल्लेख करावा की, जर परीक्षाधीन अधिका-यांने कामाचा अपेक्षित दर्जा प्राप्त न केल्यास [आणि/किंवा](#) विहित विभागीय परीक्षा, जर काही असल्यास, परीक्षावधिमध्ये उत्तीर्ण न केल्यास आणि अशा त-हेने, त्याचे काम किंवा वर्तणूक अयोग्य अथवा अननुरूप आढळल्यास, तो सेवेतून कमी करण्यास पात्र ठरेल.”

10. When undisputed facts of the case are considered in the light of relevant provisions quoted above, it becomes apparent that the employer of the applicant did possess powers to terminate his services but it is equally apparent that this drastic step ought to have been preceded by an opportunity of hearing to him as appears to have been done in the case of one similarly placed employee Shri A.B.Bhalerao. For all these reasons the impugned order cannot be sustained. The impugned order dated 12.10.2021 (A-4) is accordingly quashed and set aside. The applicant would be at liberty to make a representation to respondent no. 1 to pass consequential orders pursuant to this order of the Tribunal. Respondent no. 1 would be at liberty to proceed against the applicant in accordance with Rules but only after reasonable opportunity of hearing is extended to him to put forth his case. The O.A. is allowed in these terms with no order as to costs.

**(M.A.Lovekar)**  
**Member(J)**

aps

Dated - 12/08/2022

**(Shree Bhagwan)**  
**Vice Chairman**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.  
Court Name : Court of Hon'ble Vice Chairman&Member(J).  
Judgment signed on : 12/08/2022.  
and pronounced on  
Uploaded on : 17/08/2022.