

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 1170/2022 (S.B.)

Bhaskar S/o Adkuji Bambole,
Aged about 59 years, Occ. Retired,
R/o Lanjeda Ward, Gadchiroli,
Tah. & Dist. Gadchiroli.

Applicant.

Versus

- 1) The State of Maharashtra,
Through it's Secretary,
Department of Revenue & Forest,
Mantralaya, Mumbai- 400 032.
- 2) The Collector, Gadchiroli.
- 3) Sub Divisional Officer, Gadchiroli.

Respondents

Shri N.R.Saboo, Id. Advocate for the applicant.

Shri A.M.Khadatkar, Id. P.O. for the respondents.

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGMENT

Judgment is reserved on 15th Feb., 2024.

Judgment is pronounced on 22nd Feb., 2024.

Heard Shri N.R.Saboo, Id. counsel for the applicant and Shri
A.M.Khadatkar, Id. P.O. for the Respondents.

2. The applicant was working as Talathi, Rampur (Tukum). Ex-M.L.A., Dr. Namdevrao Usendi made a complaint against him regarding mutation entry of survey no. 78. By order dated 12.10.2020 (A-1) respondent no. 3 placed him under suspension. Respondent no. 3 then issued a chargesheet dated 07.01.2021 (A-2) on him to which he gave a reply dated 12.01.2021 (A-3) denying all charges and maintaining that the mutation entry was effected legally. Dr. Usendi filed an appeal against this mutation entry which was dismissed by respondent no. 3 by order dated 15.01.2021 (A-4). Respondent no. 3 held charges against the applicant to be proved and against punishment of withholding of one increment permanently by order dated 17.03.2021 (A-5). Respondent no. 3 further ordered that period of suspension of the applicant was to be treated "as such". Against order dated 17.03.2021 the applicant filed appeal (A-6) before respondent no. 2. The applicant retired on superannuation on 30.11.2021. His appeal was decided on 27.07.2022 (A-7) by respondent no. 2 by concluding as follows:-

१. अपील अंशतः मंजूर करण्यात येत आहे.

२. सहा. जिल्हाधिकारी तथा उपविभागीय अधिकारी गडचिरोली यांचे आदेश क्रमांक/उविअ/आस्थापना/कावि/९३/२०२१ दिनांक १७.०३.२०२२ अन्वये, निलंबित करण्यात आलेला कालावधी निलंबन कालावधी म्हणून ग्राह्य

धरण्याचे आदेश खारीज करण्यात येत आहे. व अपिलार्थीचा निलंबन कालावधी हा महाराष्ट्र नागरी सेवा (रजा) नियम, १९८१ मधील नियम ६३ अन्वये, असाधारण रजा म्हणून मंजूर करण्यात येत आहे.

३. प्रकरणातील विभागीय चौकशी पूर्ण झाल्यानंतर, गैर अपिलार्थी विभागीय चौकशीच्या अहवालाच्या आधारे, अपिलार्थीला देय होणारी एक वेतनवाढ कायमस्वरूपी रोखण्याबाबत उचित निर्णय घेतील.

४. संबंधितांना कळवा.

It is the contention of the applicant that without conducting proper enquiry punishment was imposed on him by respondent no. 3, it was an error to direct that period of suspension shall be treated "as such", respondent no. 2, the Appellate Authority proceeded on a wrong premise that enquiry against the applicant was pending though it was concluded, and further committed an error in directing that period of suspension of the applicant shall be treated as extra ordinary leave. Hence, this O.A..

3. Stand of respondents 2 & 3 is that the applicant had admitted all the charges, therefore, respondent no. 3 proceeded further and imposed minor punishment, and order passed in appeal by respondent no. 2 does not suffer from any infirmity.

4. On consideration of rival submissions and record of the case it becomes apparent that respondent no. 3 had concluded the enquiry against the applicant and then proceeded to impose punishment. Operative part of order passed by respondent no. 3 on conclusion of enquiry reads as under:-

ज्याअर्थी, अपचारी, श्री भाष्कर आडकुजी बांबोळे, तलाठी (निलंबित) तहसिल कार्यालय, धानोरा यांच्यावर ठेवण्यात आलेले दोषारोप क्रमांक १ ते ७ त्यांनी मान्य केले असल्यामुळे, ते महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ मधील तरतुदीनुसार किरकोळ स्वरूपाचे शिक्षेस पात्र ठरतात.

त्याआर्थी, महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम, १९७९ चे भाग तिन मधील नियम ५ मधील पोटनियम १ (चार) अन्वये त्यांना अनुज्ञेय असलेली पुढील देय होणारी एक वेतनवाढ कायमस्वरूपी रोखण्याची शिक्षा लादण्यात येत आहे. तसेच त्यांचा निलंबित करण्यात आलेला कालावधी हा निलंबन कालावधी घरून त्यांना शासन सेवेत या द्वारे पुनःस्थापीत करण्यात येते. व त्यांची पदस्थापना त. सा. क्र. १५ मुरखळा, तालुका, गडचिरोली येथील तलाठी या रिक्त पदावर करण्यात येते.

तरी, तहसिलदार, गडचिरोली यांनी आपले स्तरावरून श्री भाष्कर आडकुजी बांबोळे, तलाठी (निलंबित) यांची पदस्थापना वर दर्शविल्याप्रमाणे तलाठी मुरखळा सा. क्र. १५ ता. जि. गडचिरोली येथे करून तसा अनुपालन अहवाल या कार्यालयास सादर करावा.

सदरचा आदेश दिनांक १०.०३.२०२१ रोजी माझे सही व शिक्क्यानिशी निर्गमित करण्यात येत आहे.

Respondent no. 2 proceeded on a wrong premise that enquiry was pending and passed unsustainable order dated 27.07.2022.

For all these reasons order dated 27.07.2022 is required to be quashed and set aside. Further direction will have to be issued to respondent no. 2 to decide the appeal afresh and expeditiously. Order dated 27.07.2022 (A-7) is quashed and set aside. Respondent no. 2 shall decide the appeal afresh. It would be open to the applicant to raise all contentions about propriety and legality of order dated 17.03.2021 (A-5) passed by respondent no. 3. Respondent no. 2 shall decide the appeal expeditiously. No order as to costs.

Member (J)

Dated :- 22/02/2024
aps

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 Member (J).

Judgment signed on : 22/02/2024
and pronounced on

Uploaded on : 23/02/2024