

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 180/2015**

Anand Kisanji Gajbhiye,  
Aged 52 yrs., Occ. Service,  
R/o Armori, Tq. Armori,  
District-Gadchiroli.

**Applicant.**

**Versus**

- 1) State of Maharashtra  
through its Secretary,  
Department of Revenue,  
Mantralaya, Mumbai-32.
- 2) Settle Commissioner & Director  
of Land Record,  
Maharashtra State, Pune-1.
- 3) Deputy Director of Land Records,  
Nagpur Region, Civil Lines,  
Nagpur.

**Respondents**

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**Shri R.V.Shiralkar, the Id. Advocate for the applicant.**

**Shri S.A.Deo, the Id. C.P.O. for the respondents.**

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**Coram :- Hon'ble Shri A.D. Karanjkar, Member (J).**

**Dated :- 22/10/2018.**

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**ORDER**

Heard Shri R.V.Shiralkar, the Id. counsel for the applicant and  
Shri S.A.Deo, the Id. C.P.O. for the Respondents.

2. In this O.A., the applicant is challenging the legality and correctness of the punishment awarded to him in the Departmental Enquiry under Rule 5 (A), Clause 1 (4) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. The submission of the applicant is that by the impugned order his one increment is stopped for one year without affecting the future increments.

3. The facts for giving rise to the departmental proceedings were, while effecting mutation of one property, the applicant committed mistake in recording year of the sale. The applicant mentioned the date of sale-deed as 04/11/2006 though actually the property was purchased on 04/11/2003. After receiving the chargesheet, reply was given by the applicant and he plainly admitted his mistake. The enquiry was conducted and the disciplinary authority i.e. the Commissioner, Land Record, Maharashtra State, Pune-1 awarded the punishment.

4. It is submission of the applicant, that the mistake committed by the applicant was not with intention to cause harm or ill motive, therefore, it was not misconduct as defined under the Rules. It is submitted that it was accidental clerical error, it was wrongly held that it was misconduct, therefore, the punishment awarded is disproportionate; so, it is set aside.

5. It is contention of the respondents that the proper procedure is followed by the respondents. There is no legal flaw in enquiry or

breach of principles of natural justice. The enquiry was conducted following the Rules and after hearing to the applicant the disciplinary authority awarded the punishment as misconduct was proved, therefore, no interference is required in this matter.

6. I have heard Shri R.V.Shiralkar, the Id. counsel for the applicant and Shri S.A.Deo, the Id. C.P.O. for the respondents. The Id. counsel for the applicant has invited my attention to the case of **Zunjarrao Bhikaji Nagarkar Vs. Union Of India 2002 (2) Mh.L.J. 485**, it is submitted that when wrong interpretation of law is made by the quasi-Judicial officer, it cannot be said that is was actuated by malafide and it was not misconduct. In Paragraph No. 40 of the Judgment, the Hon'ble Apex Court has observed that, *"When we talk of negligence in a quasi-judicial adjudication, it is not negligence perceived as carelessness, inadvertence or omission but as culpable negligence"*.

In this case, the present applicant was working as T.I.L.R at Mohadi, while working he committed a mistake and entered wrong year of the sale-deed, he wrote the year 2006 instead of the year 2003. It is not, contention of the department that there was any ill motive for doing so or it was done to acquire some illegal gain or to harass the applicant in that matter. In this situation, it is to be seen that the approach of the disciplinary authority was hyper technical and mechanical. As observed by Hon'ble Apex Court mere carelessness or inadvertence or omission in

absence of culpability does not amount to misconduct. In order to hold that the applicant was guilty of misconduct, it was necessary to show that there was culpability. In present case the fact was that the applicant had committed clerical error and written a wrong digit, therefore, it is not possible to accept that the error or mistake was misconduct. In view of this matter, it is necessary to examine the correctness of the impugned order passed by the disciplinary authority. My attention is also invited to the fact that in appeal, the mistake committed by the applicant is rectified and the date is corrected. It seems that one digit was wrongly written by the applicant and there was no intention to cause injury to the concerned person, therefore, I am compelled to say that the disciplinary authority missed to consider the aspect of the matter, therefore, interference is required. I, therefore, accept that, the order impugned can not be sustained and it is liable to be set aside. Hence, the following order:-

### **ORDER**

The order dated 11/03/2014 passed by the Respondent No. 2 stopping one increment of the applicant for one year without affecting

the future increments is hereby set aside. The respondents are directed to release the increment held up. No order as to costs.

**Dated :-22/10/2018.**

**(A.D. Karanjkar)  
Member (J).**

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