

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 65/2022 (S.B.)**

Prashant Sahdeo Raut,  
Aged 52 years, Occ. Service,  
R/o 58, Sujata Layout,  
Dindayal Nagar, Nagpur.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through its Principal Secretary,  
Department of Soil and Water Conservation,  
Mantralaya, Mumbai-32.
- 2) Commissioner Agriculture,  
Central Building,  
Pune-1.
- 3) Joint Director of Agriculture,  
New Administrative Building,  
Civil Lines,  
Nagpur.

**Respondents**

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

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

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

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**JUDGMENT**

**Judgment is reserved on 26<sup>th</sup> Feb., 2024.**

**Judgment is pronounced on 04<sup>th</sup> March, 2024.**

Heard Shri R.V.Shiralkar, ld. counsel for the applicant and Shri S.A.Sainis, ld. P.O. for the Respondents.

2. Case of the applicant is as follows. By order dated 12.01.2007 (A-1) the applicant who was working as Agriculture Supervisor, was deputed to Korchi. By order dated 30.04.2007 (at P. 16) he was directed to go back to place of his previous posting. He was relieved. By order dated 08.12.2009 (A-2) he was placed under suspension in contemplation of initiation of departmental enquiry. By order dated 20.04.2011 (A-3) joint enquiry was directed against him and six others. He was served with a chargesheet dated 20.04.2011. He submitted reply (A-4). The enquiry officer submitted report dated 24.03.2014 (A-5). So far as the applicant was concerned, the enquiry officer concluded as follows:-

दोषारोपात नमुद कामांची पाया तपासणी वरिष्ठ अधिकारी यांनी केलेली नसतांनाही अपचारी श्री राऊत यांनी सदरची कामे केली. सदरची कामे चालू असतांना पर्यवेक्षकीय अधिकारी म्हणून अपचारी यांनी कामांना भेटी दिल्या नाहीत व सदरची कामे ३१ मार्च पूर्वी पूर्ण करून घेतली नाहीत. सदरची कामे अपूर्ण असतांनाही ती पूर्ण झाल्याच्या नोंदी मापन पुस्तिकेमध्ये करून सदर कामांच्या रकमांची अदायगी करण्यात आलेली आहे यासाठी सदर कामाचे कृषि सहाय्यक हे जेवढे जबाबदार आहेत तेवढेच पर्यवेक्षकीय अधिकारी म्हणून अपचारी श्री राऊत हे देखील जबाबदार आहेत. सबब, अपचारी श्री राऊत यांच्यावर लावण्यांत आलेला दोषारोप हा अंशतः सिध्द होतो.

The applicant submitted his say dated 10.10.2014 (A-6) before the disciplinary authority. The disciplinary authority, by order dated 07.03.2019 (A-7) held as follows:-

ज्याअर्थी, उपरोक्त दोषारोपाच्या अनुषंगाने सविस्तर चौकशी करण्यासाठी संदर्भाधीन क्र. २ चे आदेशान्वये चौकशी अधिकारी व सादरकर्ता अधिकाऱ्यांची नियुक्ती करण्यात आली होती. चौकशी अधिकारी यांनी श्री बागडे यांच्याविरुद्ध ठेवण्यात आलेला दोषारोप अंशतः सिद्ध होत असल्याचा निष्कर्ष काढून चौकशी अहवाल दिनांक ०७/४/२०१४ च्या पत्रान्वये सादर केला आहे.

ज्याअर्थी, उपरोक्त चौकशी अहवालाची प्रत श्री राऊत तत्कालीन कृषी पर्यवेक्षक यांना संदर्भाधीन क्रं ३ च्या पत्रान्वये उपलब्ध करून दिली आहे. चौकशी अहवालाच्या अनुषंगाने त्यांनी दि. १०/१०/२०१४ च्या पत्रान्वये केलेले बचावाचे अभिवेदन व त्यावर कृषी आयुक्तालयाने दिलेले अभिप्राय पाहता, चौकशी अधिकाऱ्यांच्या सादरचे काम अपूर्ण असतानाही त्या पूर्ण झाल्याच्या नोंदी मापन पुस्तिकेत करून कामाच्या रकमेची अदायगी करण्यात आल्याचे स्पष्ट होते. श्री राऊत यांच्याकडून प्रशासकीय व आर्थिक अनियमितता झाली आहे. त्यामुळे चौकशी अहवालातील निष्कर्षासाठी सहमत होऊन तसेच कृषी आयुक्तालयाचे अभिप्राय विचारात घेऊन श्री पी.एस.राऊत कृषी सहायक यांच्याविरुद्ध अंशतः सिद्ध होणाऱ्या दोषारोपाचे स्वरूप पाहता, श्री पी.एस.राऊत यांच्यावर निश्चित होणारी वसूली रक्कम रुपये १,२५,७७८/- इतकी रक्कम त्याच्या नियमित वेतनातून दरमहा रुपये ५०००/- प्रमाणे वसूल करून त्यांची पुढील वेतनवाढ दोन वर्षाकरिता कायमस्वरूपी रोखण्यात करण्यात यावी." अशी शिक्षा देण्याचा निर्णय शासनाने घेतला.

त्याअर्थी, "श्री पी.एस.राऊत यांच्यावर निश्चित होणारी वसूली रक्कम रुपये १,२५,७७८/- इतकी रक्कम त्याच्या नियमित वेतनातून दरमहा रुपये ५०००/- प्रमाणे वसूल करून त्यांची पुढील वेतनवाढ दोन वर्षाकरिता कायमस्वरूपी रोखण्यात करण्यात यावी" असे आदेश याद्वारे देण्यात येत आहेत.

On 13.05.2019 the applicant preferred appeal (A-8) against the order of the disciplinary authority. On 27.09.2021 the appellate authority passed the order operative part of which reads as under:-

*A. Appeal is partially allowed.*

*B. The punishment of stopping two increments permanently is reduced to two increments stopped temporarily to be implemented from the date of this order.*

The order of the appellate authority was communicated to the applicant by communication dated 22.11.2021 (A-10). Hence, this Original Application.

3. The applicant has raised following contentions:-

A. Before the enquiry officer report of inspection conducted by District Superintendent was produced. He did not consider it and recorded the findings against the applicant which cannot be sustained.

B. There was no basis whatsoever to quantify the amount of recovery i.e. Rs. 1,25,778/-.

C. During pendency of appeal entire amount was recovered. The appellate authority did not consider whether

or not such recovery, as part of punishment, was sustainable.

D. The applicant was kept under suspension from 08.12.2009 till his reinstatement on 03.02.2012. Keeping him under suspension for such a long period was unwarranted. Considering this aspect order dated 31.05.2021 (A-12) that period of his suspension was to be treated "as such" deserves to be quashed and set aside.

4. Respondents 2 & 3 have resisted the O.A. on the following grounds:-

A. Report of Inspection Committee was duly considered by the enquiry officer.

B. In report of preliminary enquiry dated 14.06.2007 (A-R-1) adverse findings were recorded which led to suspension of the applicant and, thereafter, initiation of departmental enquiry.

C. In report dated 24.05.2017 (at PP. 190 to 193) it was concluded:-

एकंदर संपूर्ण चौकशी प्रकरणी असे आढळून येते की, सदर उपचारांची बांधकामे आर्थिक वर्ष २००६ - २००७ संपण्यापूर्वीच प्राप्त अनुदान व्यपगत होऊ नये म्हणून

करावयाची होती. प्राप्त निधी ३१ मार्च २००७ पर्यंत खर्च करणे अनिवार्य होते. परिणामी क्षेत्रीय कर्मचाऱ्यांनी सदरची कामे ठराविक कालावधीत पूर्ण करून कामांच्या नोंदीही ३१ मार्च २००७ पर्यंत करणे अभिप्रेत होते. मात्र एकंदर कामे जरी उशिरा पूर्णत्वास व लोकहितार्थ झाली असली तरी काही "अंशी" का असेना पण "विहित मुदतीत (दि. ३१ मार्च २००७ पूर्वी) झाली नसल्याने क्षेत्रीय कर्मचाऱ्यांना विहित मुदतीत कामे पूर्ण न केल्यामुळे व संबंधित सर्व पर्यवेक्षकीय अधिकार्यांना त्यांनी अधिनस्त क्षेत्रीय कर्मचाऱ्यांना योग्य मार्गदर्शन करून त्यांचेकडून ती कामे ठराविक कालावधीत पूर्ण करवून न घेतल्यामुळे" फक्त या सदराखाली जबाबदार धरून सर्वांना "अंशतः" दोषी गणले आहे असे दिसते.

D. In report dated 26.07.2018 (at PP. 194 to 196) it was concluded:-

मुद्दा क्र.३ : जी कामे वेळेत पूर्ण झालेली नव्हती तेवढ्याच कामांची किंमत काढून वसूलपात्र रक्कम ही संवर्गनिहाय मापदंडानुसार अपचारीनिहाय विभागून त्याप्रमाणे तपशिल.

:- सदर प्रकरणी एकूण ९ गटाच्या कामावर अनियमितता झाल्याचे दिसून येते. शासन पत्र क्रमांक आकृवि-२०१४/प्र.क्र.३७/जल-१० दि. १६.९.२०१६ मधील मुद्दा क्रमांक ३ चे बाबत कर्मचाऱ्यांकडील वसूलपात्र रकमेच्याबाबत पुढीलप्रमाणे कार्यवाही प्रस्तावीत करण्यात येत आहे.

प्रत्यक्षात कामे केल्याचा कालावधी व आता तपासणीचा कालावधी यामध्ये जवळपास १० वर्षांचा कालावधी लोटलेला आहे. त्याअनुषंगाने खालीलप्रमाणे महत्वाचे मुद्दे विचारात घेणे आवश्यक आहे असे वाटते.

१) कामे अपूर्ण असतांना मापन पुस्तीकेत पूर्ण कामे झाल्याची नोंदी घेवून संपूर्ण रक्कम आहरित केलेली आहे त्यामुळे अपचारी हे दोषी आहेत.

२) विभागीय कृषि सहसंचालक नागपूर कार्यालयाने नेमलेल्या पथकाने माहे जून २००७ मध्ये प्राथमिक चौकशी केली असता कामे अपूर्ण असल्याचे दिसून आले.

परंतू ते किती प्रमाणात अपूर्ण होती याचा उल्लेख तपासणी अहवालात व मापन पुस्तिकेत सुध्दा केलेला नाही.

३) परंतू या प्रकरणी दोषी कर्मचारी/अधिकारी यांच्या विरुद्ध दोषारोप बजावतांना सरसकट वसुलीचे आरोप ठेवण्यात आले. ते प्रादेशिक चौकशी अधिका-यानी चौकशी अहवालात अमान्य केले.

४) तालुका कोरची जिल्हा गडचिरोली हा अतिदुर्गम नक्षलग्रस्त क्षेत्र असल्याने उन्हाळ्यामध्ये स्थानिक मजूर हे मोठ्या प्रमाणात तेंदूपत्ता संकलनाच्या कामावर जातात. त्यामुळे मजूर उपलब्ध झाल्यावर माहे जुलै २००७ मध्ये कामे पूर्ण केल्याचे दिसून येते.

५) उपविभागीय कृषि अधिकारी गडचिरोली यांचे चौकशी अहवालात कामे पूर्ण झाल्याचा व शेतक-यांना त्याचा फायदा होत असल्याचे नमुद केलेले असल्याने सरसकट वसूली करणे योग्य नाही असे वाटते. परंतू झालेली अनियमितता व कामातील तांत्रिक त्रुटी लक्षात घेता खालीलप्रमाणे कर्मचारी/ अधिकारी यांच्याकडून दोषारोपातील वसूली रक्कमेच्या २० टक्के आणि श्री पी.ए.गोडाने उपविभागीय कृषि अधिकारी हे तांत्रिक तपासणी व नियंत्रक असल्याने शासनाच्या नियमानुसार एकूण कामाची ५ टक्के वसूली करण्यात यावी असे वाटते.

It was further concluded that as per charge-sheet amount to be recovered from the applicant came to Rs. 6,28,890/- and its 20% came to Rs. 1,25,778/-. Recovery of this 20% amount was directed by the disciplinary authority as part of punishment.

5. On the basis of contents of report relied upon by the respondents, and limited scope of judicial review, grounds A, B & D raised by the applicant cannot be sustained. In support of

unsustainability of grounds 1, 2 and 4 reliance may be placed on following observations in **B.C.Chaturvedi Vs. Union of India & Ors. (1995) 6 SCC 749:-**

*“A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases impose appropriate punishment with cogent reasons in support thereof.”*

Reliance may also be placed on **Darshan Singh S/o Shri Ganga Singh Vs Union of India and Three Others (2016 SCC Online CAT 230)** wherein it is held:-

*The High Court / Tribunal does not sit as an appellate authority over the findings of the disciplinary authority and so long as the findings of the disciplinary authority are supported by some evidence the High Court does not re-appreciate the evidence and come to a different and independent finding on the evidence. They have to see whether there is violation of natural justice and fair play or any procedural irregularity committed by the inquiry officer, Disciplinary authority and due procedure was adopted strictly in accordance with the service rules.*

Reliance may also be placed on **Deputy General Manager (Appellate Authority) & Ors. Vs. Ajai Kumar Srivastava (2021) 2 SCC 612** wherein it is held:-



*“The constitutional court while exercising its jurisdiction of judicial review under Article 226 or Article 136 of the Constitution would not interfere with the findings of fact arrived at in the departmental enquiry proceedings except in a case of mala fides or perversity i.e. where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at those findings and so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.”*

6. In this case the enquiry officer considered material before him and recorded findings based on the same. The disciplinary authority accepted these findings and passed order dated 07.03.2019. This was not a case of “no evidence”. So far as ground no. 3 raised by the applicant is concerned, the appellate authority observed:-

*“During the hearing the appellant submitted that the work is completed. Respondent submitted that at the time when the inspection happened works were incomplete while in the measurement book, the work was shown as completed. When this inquiry started then the appellant might have got the work completed. Having heard both the appellants and respondent in detail and after going through the documents submitted, it is submitted by the Department that as on date works are completed and recovery from Mr. Raut has already been made.”*

The appellate authority then proceeded to scale down the punishment by holding as follows:-

*“B. The punishment of stopping two increments permanently is reduced to two increments stopped temporarily to be implemented from the date of this order.”*

From the aforequoted portion it can be gathered that the appellate authority confirmed order of disciplinary authority to the extent of recovery of amount as part of punishment. It may be reiterated that this amount was quantified on the basis of report dated 26.07.2018 (at PP. 194 to 196). In view of discussion made hereinabove, the applicant will not be entitled to any relief. **The O.A. is accordingly dismissed with no order as to costs.**

**Member (J)**

**Dated :- 04/03/2024**  
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 : 04/03/2024  
and pronounced on

Uploaded on : 05/03/2024