

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 71 of 2010 (D.B.)**

Motiram S/o Chaplaji Pawar,  
Aged about 51 yers, Occ. Food Inspector  
R/o Amravati, Tq. & Distt. Amravati.

**Applicant.**

**Versus**

- 1) State of Maharashtra through its Secretary  
Medical Education Food & Drugs Administration Department,  
Mantralaya, Mumbai-400 032.
- 2) The Commissioner,  
Food & Drugs Administration,  
M.S., 341, Bandra-Kurla Complex (East),  
Mumbai-51.
- 3) The Joint Commissioner,  
Amravati Division,  
Amravati.

**Respondents.**

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**S/Shri G.N. Khanzode, Mrs. P.T. Joshi, G.C. Khond, Advocates for the applicant.**

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

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J) and  
Hon'ble Shri Shree Bhagwan, Member(A).**

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**JUDGMENT**

**PER : V.C. (J).**

**(Delivered on this 3<sup>rd</sup> day of September,2018)**

Heard Shri G.N. Khanzode, learned counsel for the  
applicant and Shri S.A. Sainis, learned P.O. for the respondents.

2. The applicant belongs to VJ (A) category being "Banjara" by caste. He was appointed as a Food Inspector and joined the services on 11/12/1989. In 1999, he was transferred from Chandrapur to Wardha. On 18/12/2001 the applicant visited two Kirana Shops at Pulgaon and took sample of ground-nut oil and after completing all formalities seal bottles to the public analyst to find out adulteration, if any.

3. The Public Analyst vide letter dated 26/12/2001 found some ambiguity in the number of those sealed bottles of samples. The applicant vide letter dated 02/01/2002 tried to clarify the ambiguity. After completing the formalities two criminal cases were filed against two shop owners separately. One criminal case no.140/2002 was filed against M/s M.G. Traders, Pulgaon and another criminal case no.141/2002 was filed against M/s Kisanchand Dhing, Pulgaon. The case of M/s Kisanchand Dhing however, abated due to death of accused there in and the case against M/s M.G. Traders failed due to alleged mistake committed in sending sample bottles.

4. According to the applicant, the Assistant Commissioner, Wardha having grudge against the applicant reported to take action against the applicant to the superior authority vide letter dated 08/11/2005 and on the basis of his recommendation a charge sheet

was served on the applicant on 14/06/2006. The departmental enquiry was conducted and the respondent no.2 passed the impugned order dated 15/10/2008 punishing the applicant in the department enquiry whereby his two increments were withheld on permanent basis. The order dated 15/10/2008 as aforesaid was received by the applicant on 19/11/2008 and therefore he preferred appeal to respondent no.1. The respondent no.1 issued an order dated 24/09/2009 and dismissed the appeal. The applicant has therefore filed this O.A. The applicant has claimed following reliefs :-

*(i) Quash and set aside the impugned order no. FDS-2509/38/c.no.15/09/drugs-1, bearing dated 24/9/2009 passed by the respondent no.1 in appeal preferred by the applicant under rule 17 of the Maharashtra Civil Services (Disciplinary & Appeal) Rules,1979 and the impugned order no. DE-8/MCP/FI/99-06/18, bearing dated 15/10/2008 issued by the respondent no.2, herein and actually served upon this applicant on 19/11/2008 (Annex-A1) and also the impugned charge sheet dated 14<sup>th</sup> June,2006 and the entire proceeding of impugned DE against this applicant, and upon quashing the same to exonerate this applicant from the said charges with all serve benefits, under the facts and circumstances of the present case and in the interest of justice.*

*(ii) Allow the instant O.A. by saddling on the respondents throughout and grant any other suitable relief including remand of the matter to the authorities concerned, for which this applicant is entitled in law, under the facts and*

*circumstances of the present case and in the interest of justice and equity.*

5. The respondents have filed their reply-affidavit and justified the action taken against the applicant. The some and substance of the reply is that because of the grave negligence in duty on the part of applicant, the criminal cases failed and the accused were acquitted. The applicant did not write correct name of the proprietor Shri Mahesh Haridasji Mokati and instead incorrect name i.e. "Shri Mahesh Haridasji Mokashi" was mentioned. He has also not properly described the property and therefore the culprits were benefited. In short, the respondents justified the action against the applicant.

6. The learned counsel for the applicant invited our attention to the order passed by the appellate authority i.e. respondent no.1 dated 24/09/2009 and submitted that the appellate authority has maintained the order of punishment in the departmental enquiry without application of mind. He submits that the order passed by the appellate authority is mechanical and without application of judicious mind and against the provisions of rules 17 and 23 of the Maharashtra Civil Services (Disciplinary & Appeal) Rules,1979. The appellate authority has failed to appreciate the contentions and

grounds raised in the appeal memo and has not perused the entire record.

7. As regards the order passed by the Commissioner, Food and Drugs Administration in the departmental enquiry i.e. at Annex-A-1 dated 15/10/2008, it is stated that the charges were motivated with malafides and were only with intention to put the applicant in trouble and put stigma on his clean and unblemished long standing service record. However we find that except mere allegations of malafied, the applicant could not place on record any documents to show that the superior authority was in any manner prejudiced against the applicant and the reasons for such prejudice.

8. We have perused the inquiry report. The copy of which has been placed on record at Annex-A-10 at P.B. page nos. 58 to 86 (both inclusive). The material changes made against the were as under :-

^2½ i dj.krhy vjki @nkskiki &

clc dz1 & Jh- ekspk i okj] rRdkyhu vUu fujh{kd] o/kkz; kauh frukad 18@12@2001 jksthes, e-  
th- VMl ] i yxko ; kpsdMu ?kqV cMM Mcy fQYVMZenkQYyh rsykpk ueuk ?krkuk , y, p, Lyhi  
dkM dzWRD/24/ND-1010 ; k dkM Lyhi pk oki j dsk- I nj ueuk vi ækf.kr BjY; keGsi sh  
fo#/n nk[ky dj.; kr vkyV; k [kVY; kP; k I ukoko.kh njE; ku ueu; kpk nd jk Hkkxkph i MrkG.kh  
djrkauk R; ke/; s , dk Hkkxkoj dkMfLyi dz1010 o nd & k Hkkxkoj dkMfLyi dz964 ykoys  
vl Y; kpsfun'kZukl vkys i fj.kkeh vUu fujh{kd Jh-ekspk-i okj ; kauh ueus?krkuk dskV; k pphkeG  
[kVyk fMLpktZ gks; kph 'kD; rk y{kkR ?krk Jh-i okj ; kauh R; kps dkekr furkar I pkVh o  
drD; ijk; .krk jk[kyh ukgh- R; keGSR; kauh egkjk"V<sup>a</sup> ukxjh I ok %orZkd½ fu; e]1979 varxR  
fu; e 3 ¼1½ ¼, d½ o 3 ¼1½ ¼nku½ pk Hkx dskv vkgs

**clc dz2** & mDr Jh- elspk i okj] ; kauh R; kp fno' kh Eg.kts10@5@1999 jksth es fd' kupan nltgkey f<x] i gyxknd ; k i s:hdMuu 'ksxnkuk rsykpk ueuuk ?ksryk- I nj ueuuk ?ks ; kl kBh R; kauh , y, p, Lyhi dklM dz WRD/24/ND-964 ; k dklM Lyhi pk oki j dsyk- I nj ueuuk ; k izdj.khgh R; kauh ojhy clc dz1 e/; suem pndhph i qjkoRrh dsyh- i fj.kkeh I nj [kVykgk ek-U; k; ky; kdMu dk<uu Vkd.; kph 'kD; rk y{kkk ?ksrk Jh- i okj vlu fujh{kd ; kauh R; kpsdkekr furkar I pksh o drD; i jk; .krk jk[kyh ukgh Eg.kuu R; kpsdMu egkj k"V"ukxjh I sk 1/4orZknd 1/2 fu; e]1979 varxh fu; e 3 1/4 1/2 1/4, d 1/2 o 3 1/4 1/2 1/4nku 1/2 pk Hkx dsyk vkgs

**clc dz3** & mDr Jh- i okj] ; kauh ojhy clc&1 e/; suem ish e/; ses, e-th- VMl j i gyxknd ; kpsdMu fnuknd 18@12@2001 jksth ?kqkV cMM] Mcy fQYVMZenkQYyh rsykpk ueuuk ?ksrkuk tlr dsyk; k rsykP; k I kB; k izdj.kh dkn i =s r; kj djrkauk R; kauh nplkunkj kps uknd Jh-egsk gjhnl dkdkrh , o th Jh-egsk djhnl ekdk' kh uem dsys r l p fodR; kus 'ksxnkuk rsykP; k i j o Bknkj kps uko m?kM u dY; kps dkj .kkLro vkjki h fo#/n dye 14 vspsmYy@kukckr LFKkfud 1/4vkjkk; 1/2 i kf/kdk&; kpsvknk kkuo; snk[ky dsyk [kVykdz RRC No.67/2002, fnuknd 24@2@2002 e/; gh vkjki hps uknd egsk gjhnl ekdk' kh , o th dkekrh vl suem dsys ; ko#u Jh- i okj ; kauh R; kps dkekr furkar I pksh o drD; i jk; .krk jk[kysy ukgh Eg.kuu R; kpsdMu egkj k"V"ukxjh I sk 1/4orZknd 1/2 fu; e]1979 varxh fu; e 3 1/4 1/2 1/4, d 1/2 o 3 1/4 1/2 1/4nku 1/2 pk Hkx dsyk vkgs\*\*

9. Perusal of the report shows that the department has examined one Shri A.G. Udhoji, Assistant Commissioner, Thane, Shri S.P. Katti, Inspector (Food), Raigad (Pen), Shri A.M. Satpute, Joint Commissioner r/o Shivaji Nagar, Pune and Shri S.B. Thigale, Public Analyst, Pune. All these witnesses were crossed examined at length on behalf of the applicant. Not only that the applicant has also examined two defence witnesses i.e. one Shri S.W. Trupkane and one Shri B.B. Gaiki. The applicant was given full opportunity to explain the incriminating circumstances against him and to put on record his defence and after going through the merits of the case the Inquiry Officer gave his findings as under :-

**^xklojk**

vkjksi dz 1 & fl /n gkrks

vkjksi dz 2 & osxGk vkjksi fl /n gkr ukgh-

vkjksi dz 3 & fl /n gkr ukgh\*\*

10. After receiving the inquiry report a show cause notice was given to the applicant as to why action shall not be taken on such report and on considering the explanation given by the applicant, the competent authority i.e. respondent no.2 passed the impugned order dated 15/10/2008. In the said order it is mentioned as under :-

^vkf.k R; kvFkhZ Jh-ekspk- i okj] vlu fujh{kd] vejkorh ; kauh R; kps i = fnukad 20@08@2008 uq kj l knj dsysys Li "Vhdj.k R; kauk ns; kr vkyY; k ; k dk; ky; kP; k l mfhkz i = dz1 o 2 P; k nks'kkjksi kph o dkj .ksnk[kok ukv/hl ph i MrkGuu i kfgysvl rk l ek/kkudkj d vk<Gysukgh-

R; kvFkhZ Jh-ekspk-i okj] vlu fujh{kd ; k i noj dk; Jr vl uu vlu Hkl G i frcal/dk dk; n; kph veyctko.kh dj .ksgsR; kpsdrD; vkgs l njgwldk; n; kph veyctko.kh dj rkauk pnd >KY; kl R; kpk i fj.kke ukxjhcdkP; k vkjkk; koj gkr vl rks l mfhkz i = dz1 e/khy i dzj .kkr dkjokbz dj rkauk pnd >KY; kus o R; k pndhpk Ok; nk R; kP; kfo#/n dkjokbz dj .; kr ; srs R; kauk Oqkok- v'kk i dzkjP; k vl ngrmsR; kauh dk; bkgh dj .; kpk iz Ru dsysk- Jh-i okj gsykd l od vl uu l ektkpsfo' oLr vkgr o R; k fo' oLr kP; k Hkfedrsuu R; kauh dke dj .ks vko'; d vkgs ykd l odkus v'kk i/nrhus dke dY; kl 0; ki d l ektfgrikpsdk; gkbZ/k \ i Lnr i dzj .kkrhy Jh-i okj ; kP; k orZuko#u R; kph l pkv/h l qnk ----- fl /n gkrs

R; kvFkhZ eh] vk; Or vlu o vksk/k iz kkl u] e-jkT; rFk f'klrHkax fo"K; d i kf/kdkjh ; k fu"d"kkZ r vkyks vkgs dh] Jh-ekspk-i okj] vlu fujh{kd] vejkorh ; kP; koj B0.; kr vkyY; k nks'kkjksi kr rF; vl uu R; kauh R; kP; k i nkph tckcnkj h 0; oLFkhr i kj lkkMysyh ukgh Eg.kuu egjk"V<sup>a</sup> ukxjh l ok 1/4'klr o vihy1/2 fu; e]1979 varxZ fu; e 6 1/21/2 vlu; sey k i ktr vf/kdkjkr [kkyhy i æk.ksf'k{k dkj .; kpk fu.kz ?ksryk vkgs

^^ Jh-ekspk-i okj] vlu fujh{kd] vejkorh ; kP; k nku osruok<h Hkfo"; dkyhu osruok<hoj i fj .kke d#u dk; eP; k Fkfo. ; kr ; s vkgr-\*\*

11. Perusal of the order passed by the appellate authority also shows that the applicant was heard in person and it is mentioned that the appellate authority has also looked into the points raised in the appeal memo, the evidence and all other circumstances and confirmed the order of punishment. The rule 23 of the Maharashtra Civil Services (Disciplinary & Appeal) Rules, 1979 deals with consideration of appeal and the procedure to be followed while dealing with the departmental appeal. As per the rule 23 (2), which is applicable to the present case, the appellate authority has to consider whether the procedure laid down in the rules has been followed and if not, whether such non compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice and whether the findings of the disciplinary authority are warranted by the evidence on the record and whether the penalty or the enhanced penalty imposed is adequate/ inadequate or severe. In the present case, the allegations against the applicant are very serious. Because of his mistake in description of the name of the accused as well as in description of the sample bottles, the culprits have been benefited and in the departmental enquiry the applicant has admitted his mistake. Instead of such a grave mistake committed by the applicant, the competent authority has taken very lenient view against the applicant and he was punished with stoppage of two increments only with permanent effect. In our opinion, the competent authority



has already taken a very lenient view against the applicant and therefore we do not find any illegality in both the impugned orders. There is no reason to disbelieve that authority has not considered all these facts and circumstances on record including the points raised in appeal memo as mentioned in the order. We, therefore do not find any reason to interfere in the order passed by the competent authority as well as appellate authority. Hence, the following order :-

**ORDER**

The O.A. stands dismissed with no order as to costs.

**(Shree Bhagwan)**  
**Member(A).**

**(J.D. Kulkarni)**  
**Vice-Chairman (J).**

**Dated :- 03/09/2018.**

dnk.