

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH : NAGPUR
ORIGINAL APPLICATION NO. 866/2023(S.B)

Ramesh Bhojaji Galande,
Aged about 46 years,
Occ. Presently working as an Assistant Registrar,
Co-operative Societies (Administration) I,
In the office of District Deputy Registrar,
Yavatmal, R/o Yavatmal.

.....**Applicant.**

-Versus -

1. State of Maharashtra,
Through its Secretary, For Co-operative,
Marketing and Textile Department,
Mantralaya, Mumbai-32.
2. Commissioner (Co-operative)
State of Maharashtra,
Central Building, Pune.
3. Joint Registrar,
Co-operative Societies,
Kanta Nagar, Amravati.
4. District Deputy Registrar,
Co-operative Society,
Yavatmal.

.....**Respondents.**

Shri S.A.Marathe, Id. Advocate for the applicant.

Shri V.A.Kulkarni, Id. P.O. for the respondents.

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

JUDGMENT**Judgment is reserved on 08th Feb., 2024.****Judgment is pronounced on 20th Feb., 2024.**

Heard Shri S.A.Marathe, ld. counsel for the applicant and
Shri V.A.Kulkarni, ld. P.O. for the Respondents.

2. The impugned order dated 13.07.2023 (Annexure-A-1)
reads as under:-

ज्ञापन

माझे असे निदर्शनास आले आहे की, आपण कार्यालयात वारंवार व सतत अनधिकृतपणे गैरहजर आहात, तसेच आपण बरेचवेळा कार्यालय प्रमुखाची परवानगी न घेता कार्यालयातुन परस्पर निघुन जाता. आपली वर्तणुक कार्यालयीन शिस्तीस अनुसरुन नाही. आपण कार्यालयात कधीही येणे व कधीही जाणे तसेच वारंवार कार्यालयात गैरहजर राहणे, अशा अनेक बाबी निदर्शनास आलेल्या आहेत. याबाबत आपणास वारंवार लेखी अथवा मौखिक सुचना देण्यात आलेल्या आहेत. तरीही आपण याविषयी दखल घेतलेली दिसून येत नाही. त्यामुळे आपण महाराष्ट्र नागरी सेवा (रजा) नियम, १९८१ मधील संबंधीत तरतूदीचे योग्य प्रकारे अनुपालन केले नाही.

करिता आपणास पुनश्चः सुचित करण्यात येते की, आपण कार्यालयात उपस्थित न झाल्यास आपले माहे जुन २०२३ पासूनचे वेतन रोखण्यात येत आहे. याची गंभीरपणे नोंद घ्यावी.

This order refers to several notices given by respondent no. 4 and explanations given by the applicant by way of reply. It is the grievance of the applicant that pursuant to the impugned order his salary was withheld. Hence, this Original Application.

3. By interim order dated 06.11.2023 this Tribunal had directed respondent no. 4 to release salary of the applicant for the months of June, July and August, 2023.

4. Reply of the respondents refers to O.A. Nos. 359/2022 & 1058/2022 filed by the applicant. Both these O.As. have no nexus whatsoever with the impugned order. The reply further refers to various notices issued to the applicant calling upon him to show cause why he should not be departmentally dealt with for habitual unauthorised absence, and explanations given by the applicant to these notices.

The reply further states:-

It is submitted that, the Respondent No. 4 vide memo dtd. 1.12.2022 and 3.1.2023 brought the fact of applicant's persistent absence to the notice of respondent no. 3. Since respondent no. 2 vide letter dtd. 9.3.2022 has asked respondent nos. 3 and 4 to submit the proposal of departmental enquiry in the prescribed format of Annexures 1 to 4, the same is in progress.

The reply also states:-

It is submitted that, the action of stoppage of payment arises from the Maharashtra Civil Service Pay Rules - No work No pay. As per Civil Appeal No. 1141/2014 (Chennai Metropolitan Water Supply Board and Others -Vrs- T.T.Murlibabu), Hon'ble Supreme Court has ruled that unauthorized absence from work culminates into undisciplined behavior and employees displaying such undisciplined behavior should be proceeded with disciplinary action to set proper example to other employees and curb such tendencies. Accordingly from the memos annexed by the applicant it becomes evident how

regularly the applicant has been evading working by remaining absent from office without proper permissions. Hence, the disciplinary action initiated against the applicant is proper and legal.

(Emphasis supplied)

5. The respondents have placed on record at Annexure-R-1 G.R. of Finance Department, Government of Maharashtra dated 10.10.2017 heading of which is as follows:-

अनधिकृतपणे गैरहजर राहणाऱ्या शासकीय कर्मचाऱ्यांविरुद्ध कार्यवाही करण्याबाबतच्या सूचना.

This G.R. further states:-

शासन निर्णय, वित्त विभाग, दिनांक २ जून, २००३
कर्मचाऱ्याची रजेशिवायची अनुपस्थिती असमर्थनीय असल्यास अशा शासकीय कर्मचाऱ्यांविरुद्ध शिस्तभंगाची कार्यवाही सुरु करण्यात यावी. तसेच, रजेशिवाय अनुपस्थित राहिल्याबद्दल संबंधित कर्मचाऱ्यांविरुद्ध वेळीच शिस्तभंगाची कार्यवाही न केलेल्या सक्षम प्राधिकाऱ्यावर या संबंधातील जबाबदारी निश्चित करण्यात यावी.

From this G.R. it can be gathered that any employee can be departmentally dealt with for unauthorised absence. In the instant case departmental enquiry is admittedly not initiated against the applicant. In this factual background the impugned order of stoppage of salary cannot be sustained. It is accordingly quashed and set aside. The respondents are directed to pay his unpaid salary to the

applicant within one month from today. **The O.A. is allowed in these terms with no order as to costs.**

Member (J)

Dated :- 20/02/2024

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 : 20/02/2024
and pronounced on

Uploaded on : 21/02/2024