

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 87 of 2020

Amit S/o Ashok Jagdale, aged about 48 years,
Occ. – Service, R/o 303, Universal Mansion,
Plot No. 12, New Snehnagar, Khamla, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
through its Chief Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai.
- 2) Director, Technical Education,
Maharashtra State, 3, Mahapalika Marg,
Post Box No. 1967, Mumbai.
- 3) Joint Director, Technical Education, Regional office,
Government Polytechnic campus, Sadar, Nagpur.
- 4) The Principal, Government Polytechnic,
Shendurwafa, Sakoli, Tq. Sakoli, Dist. Bhandara.
- 5) Dr. Ashokkumar Laxminarayan Upadhyay,
Aged about 55 years, Occ. Service, Office at Government
Polytechnic, Shendurwafa, Sakoli, Tq. Sakoli, Dist. Bhandara.

Respondents

Shri S.P.Palshikar, Id. Advocate for the applicant.

Shri M.I.Khan, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri Shree Bhagwan,
Vice-Chairman.**

Date of Reserving for Judgment : 29th June, 2020.

Date of Pronouncement of Judgment : 20th July, 2020.

JUDGMENT

(Delivered on 20th day of July, 2020)

Heard Shri S.P.Palshikar, Id. counsel for the applicant and Shri M.I.Khan, Id. P.O. for the respondents.

2. As submitted by Id. counsel for the applicant, the applicant was appointed as Lecturer since August, 2001. Thereafter, the applicant was recommended by M.P.S.C. for the post of H.O.D., Mechanical Engineer, Government Polytechnic, Class-I. Accordingly, the applicant was appointed on probation period of 02 years at Government Polytechnic, Sakoli vide Government Resolution dated 06.08.2016 (Annexure-A-1, P.B., Pg. No. 25) in open category. The applicant joined on said post on 12.08.2016 (Annexure-A-2, P.B., Pg. No. 29).

3. The Respondent no. 5 has joined in the capacity of respondent no. 4 on 10.10.2018. It is submitted that after taking over-charge by respondent no. 5 as Respondent no. 4 his working style was conflicting with the other employees. The impugned order dated 20.01.2020 (Annexure-A-30, P.B., Pg. No. 103) issued by respondent no. 4 to the applicant is under challenged in this O.A..

4. It is pertinent to note that respondent no. 4 vide his letter dated 30.11.2019 (Annexure-A-10, P.B., Pg. No. 51) had sent the applicant on compulsory leave and the matter was heard in the Tribunal and as per order sheet dated 20.12.2019 in O.A. No. 984/2019; the Tribunal directed respondent no. 4 to cancel order dated 30.11.2019 for sending the applicant on compulsory leave.

5. Subsequently, the order was passed in O.A. No. 984/2019 (Annexure-A-22, P.B., Pg. No. 70) in para nos. 4 and 5 following observations was made:-

"4. After hearing both the parties, Principal was directed that he is acting beyond the power given to him under Maharashtra Civil Services (discipline and appeal) Rules, 1979. There is no provision to send any employee on compulsory leave. However, he is also informed that he is at liberty to take action against any officer working under him under Section 8 or under Section 10 of Maharashtra Civil Services (discipline and appeal) Rules, 1979.

5. The respondent no. 4 further submitted that by Monday applicant can report to the institute and he will get him to joined on duty. He is also directed that if he feels that still the applicant's behaviour is not proper he is at liberty to take proper action as per the M.C.S. (discipline and appeal) Rules, 1979 and award appropriate punishment."

6. Subsequently, respondent no. 4 issued suspension order to the applicant vide his letter dated 20.01.2020 (Annexure-A-30, P.B., Pg. No. 103) and in the said order did not mention head quarter of the applicant and also conditions regarding payment of subsistence allowance again applicant approached to the Tribunal against this order. After hearing on 09.04.2020, 04.05.2020 and 30.06.2020; Tribunal

passed following order on 30.06.2020 and directed respondent no. 4 to cancel the order dated 20.01.2020 with immediate effect. The Tribunal order is reproduced below in para nos. 2 and 3 of order sheet dated 30.04.2020:-

2.The learned counsel for the applicant has placed on record affidavit of the applicant and along with the affidavit he has enclosed letter dated 21/1/2020 issued by the Joint Director, Technical Education (M.S.), Mumbai. By this letter,the Joint Director, Technical Education (M.S.), Mumbai has directed the respondent no..4 to cancel his impugned order dated 20/1/2020(A.N.). In the said letter the Joint Director has also mentioned that the said action of respondent no.4 is out of rule.

3.The respondent no.4, the Principal, Government Polytechnic, Sakoli is directed to act as per the letter of Joint Director, Technical Education (M.S.), Mumbai dated 21/1/2020 with immediate effect and place on record his compliance on 4/5/2020.

7. The order of suspension dated 20.01.2020 has been already been cancelled and compliance has been filed during course of hearing on 04.05.2020. Cancellation of suspension order dated 20.01.2020 was did vide his letter dated 02.05.2020 (P.B., Pg. No. 133). Perusal of that letter, it is not mentioned about the post on which applicant was posted after reinstatement. It is only mentioned that applicant is taken in service.

8. The respondent no. 4 complied the order and it was placed before the bench by Id. P.O. during hearing on 04.05.2020. The facts are mentioned in para no. 2:-

"2.The learned P.O. has filed letter dated 2/5/2020 issued by the Principal, Government Polytechnic, Sakoli by which the suspension order of the applicant dated 20/1/2020 has been cancelled. However, the applicant is yet to be paid salary from December,2019 till cancellation of suspension order as per relief clause no.10 (ii) (page no.19). The said payment must be paid within three weeks from the date of this order."

9. However, since applicant has not paid salary since December, 2019 till date and taking various excuses as submitted by the Id. counsel for the applicant; it appears that taking the cognizance and behaviour of respondent no. 4, department appointed a committee of three members which are below:-

A. Chairman Enquiry Committee (Principal Government Polytechnic, Aarvi).

B. Head of the Department (Textile), Government Polytechnic, Nagpur.

C. Workshop Superintendent, Government Polytechnic, Nagpur.

10. The employees working under respondent no. 4 have made complaint against the respondent no. 4 to Director, Technical Education which is filed on record (Annexure-A-3, P.B., Pg. Nos. 30 to 36).

11. The report of the committee is placed on record as Annexure-A-4, P.B., Pg. No. 37 to 41 the inference drawn by committee is reproduced below:-

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As report given by the committee, it appears that respondent no. 4 is not able to perform his duty and by various acts he tried to harass applicant by first sending him compulsory leave than suspending

employee and finally not paying him salary; It shows total high handedness. The respondent no. 4 is not only issuing orders which are not within M.C.S. (Discipline and Appeal) Rules, 1979; he is also in the habit of issuing orders beyond his power and in the process. He is harassing the employees working under him. After going through all these facts, it is observed that respondent no. 4 needs to improve his working style and stop harassing employees.

12. In view of the discussions in above paras and inference drawn by committee against respondent no. 4 on P.B., Pg. No. 41, the O.A. requires to be partly allowed. Hence the following orders:-

ORDER

1. The O.A. is partly allowed in terms of prayer clause nos. 10 (i) i.e. *"Quash and set aside order dated 20.01.2020 passed by the respondent no. 4 – Principal, Government Polytechnic, Sakoli (Annexure-A-30, P.B., Pg. No. 103)"*
2. As per the prayer clause 10 (ii), P.B., Pg. No. 19, *"The respondent no. 4 is directed to release salary of the applicant for the period from December, 2019 onwards till date."*
3. According to the prayer clause 10 (ii) ; Payment be made to the applicant **within two months** from the date of this order.
4. No order as to costs.

(Shri Shree Bhagwan)
Vice-Chairman

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : A.P.Srivastava

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 20/07/2020.

and pronounced on

Uploaded on : 20/07/2020.