

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO.276/2016

Dr. Mrs. Savita Sanjay Raut,
Aged about 48 years, Occ. Service,
R/o Flat No.10, Brij Vihar Appt.
Civil Lines, Yavatmal

..Applicant

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai 400032
- 2) Zilla Parishad, Yavatmal,
Through its Chief Executive Officer,
Zilla Parishad, Yavatmal
- 3) Project Director,
District Rural Development Agency,
Zilla Parishad, Yavatmal

..Respondents

Shri R.R. Rathod - Advocate for the Applicant

Shri S.A. Sainis – Presenting Officer for Respondent No.1

Shri S.S. Bhalerao – Advocate for Respondents No.2 & 3

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

Dated :- 26th October 2018.

J U D G M E N T

Heard Shri R.R. Rathod, learned Advocate for the Applicant, Shri S.A. Sainis, learned Presenting Officer for Respondent No.1 and Shri S.S. Bhalerao, learned Advocate for Respondents No.2 & 3.

2. The applicant is challenging the order passed by the Resp. No.3 on 23-3-2016 deducting amount Rs 2500/ from the salary of the Applicant for the month March 2016. The facts in brief are as under.

3. The applicant was working as Asst. Project Officer (Animal Husbandary), District Rural Development Agency under control of the Resp. No.2. On 9-11-2011 MR. Shaikh Khalil applied for information under RTI Act. The application was forwarded to the applicant as she was Public Information Officer. The applicant forwarded the application to Shri. S.N. Jadhao Extension Officer for the complience as the information called was concerning that section. As the information was not supplied by the Extension Officer, Mr. Shaikh preferred first appeal on 9-12-2011 before the Resp. No. 2 and it was forwarded to the Resp. No.3 who was the First Appellate Authority. Shri P. J. Shinde was the Project Director after hearing the appeal he directed to supply the information to Mr. Shaikh within 20 days and disposed the appeal.

4. The order passed in the appeal was not complied so Mr. Shaikh preferred second appeal before State Information Commissio Amravati. The second appeal was decided on 6-12-2012 and direction was given to the Project Director to supply the information to Mr. Shaikh within 2 months. The respondent No.3 the Project Director did not comply the order, therefore, Mr. Shaikh again moved the State Information Commission and the Commission issued show cause notices to then Project Director Shri. R.U. Avachar, Shri. P. G. Rathod, Shri. Prashant Rumale and called upon

them to explain why action for contempt should not be taken. After hearing the State Information Commission passed order on 6-7-2015 and directed the first appellate authority to pay compensation Rs.2500/ within 30 days to Mr. Shaikh and adjourned the case for hearing on 30-7-2015.

5. The matter came before the State Information Commission on 22-9-2015 and the commission directed that the C.E.O. Z.P. Yavatmal shall decide within 15 days whether the First Appellate Authority should pay the compensation or the concerned officer/employee. It is grievance of the applicant that the C.E.O. Z.P. Yavatmal did not decide the liability to pay compensation and by letter dt/ 2-11-2015 the Resp. No.3 informed her that as directed by the C.E.O. Z.P. Yavatmal it was not proper on the part of the first appellate authority to pay compensation, therefore, the applicant should deposit amount Rs.2500/ immediately. Later on the Resp. No.3 informed vide Anx. A9 dt/ 23-3-2016 to the applicant that as per order of the C.E.O.Z.P. Yavatmal he deducted amount Rs.2500/ from the salary of the applicant. It is contention of the applicant that the order impugned is illegal for the reason that she never worked as Project Director or the First Appellate Authority, therefore, the recovery of Rs.2500/ from her salary is unwarranted, therefore, the application be allowed.

6. The Resps. No.2 and 3 have filed their reply and challenged the application. It is contended that the order of recovery is in conformity with the direction issued by the State Information Commission, there is no illegality in it. It is contended that at the relevant time the applicant was holding the charge of Public Information Officer, therefore, the application submitted by Mr. Shaikh was forwarded to her, the applicant did not supply the information within time. The First Appellate Authority decided the appeal on 20-12-2011, it was submitted by the Public Information Officer that the information would be supplied within 20 days accordingly the appeal came to be disposed off. It is contended that the information was

not supplied, therefore, Mr. Shaikh preferred second appeal before the State Information Commission. It is case of the Resps. No. 2 and 3 that from 28-3-2012 to 30-6-2013 the applicant was holding charge of first appellate authority, she was present before the Commission when the second appeal came to be disposed off on 6-12-2012. It is contended that the appellant did not supply the information, therefore, Mr. Shaikh again approached the State Information Commission, the matter was heard on 22-9-2015 and the Commission directed to pay compensation Rs. 2500/ to Mr. Shaikh.

7. It is submission of the Resps. 2 and 3 that as per order of the Commission notice was issued to the applicant and was directed deposit Rs.2500/ in the office. The applicant did not deposit the amount but she forwarded explanation and disputed her liability. According to these respondents as the applicant was the First Appellate Authority, therefore, she was liable to pay the amount as per order of the Commission dt/ 22-9-2015, therefore, the recovery is just and proper, the application be dismissed.

8. I have heard learned counsel for the applicant and the Resps. No.2 and 3. The learned counsel for the applicant invited my attention to Anx. A 8 which is at page 15 of the paper-book . On perusal of Anx. A 8 it seems that the Project Director Shri Avachar and Shri Rathod in reply to show cause notice explained to the State Information Commission that the record was in custody Civil Engineer Shri Jaiswal and as papers were not received from him earlier order of the Commission could not be complied, both undertake that they would supply the information within 90 days. In view of this undertaking the show cause notices were withdrawn. The Commission has also observed that the Public Information Officer and the First Appellate Authority informed that proposal was received from P.S. Yavatmal for initiating DE against Shri Jaiswal. It was submitted by the

applicant before the Commission that the order of the Commission was received on 6-12-2012 and the above facts were brought to the notice of the Project Director. Latter was written by the applicant and orders were issued for enquiry to enquiry officer Shri Kalbande Dy. Eng. For conducting enquiry. Before the Commission it was submitted by the applicant that she had made efforts to comply the order and she was not responsible for the non compliance of the earlier order passed by the Commissioner. In view of these facts the Commission directed the C.E.O. Z.P. Yavatmal to fix the liability within 15 days, as to who was liable to pay the compensation.

9. After reading the entire order dt/ 22-9-2015 it is difficult to accept that by this order the Commission directed the First Appellate Authority to pay the compensation, on the contrary direction was given to the C.E.O.Z.P. Yavatmal to fix the responsibility. The Resps. No.2 and 3 in their reply have not stated that any enquiry was conducted by the C.E.O.Z.P. Yavatmal for fixing the responsibility. The order passed by the C.E.O.Z.P. Yavatmal is not produced before the tribunal till today. In view of these facts I am compelled to say that the Commission was prima facie satisfied with the explanation of the applicant. Before the Commission the Resps. No.2 and 3 did not submit that the applicant was liable for the non compliance of the order of the Commission, but it was submitted by them that Shri. Jaiswal was in custody of papers and he did not supply the papers. Keeping in view the direction issued by the Commission on 22-9-2015, it was duty of the C.E.O.Z.P. Yavatmal to conduct enquiry for fixing responsibility, but it is not done. In this background the action of the Resps. demanding amount of compensation from the applicant and its recovery is unwarranted and illegal, therefore, it can not be sustained. Hence, the following order.

ORDER

The application is allowed. The order passed by the Resp. No.3 on 23-3-2-16 is hereby set aside. The respondents do pay amount Rs.2500/ recovered from the applicant to her within 2 months. No order as to costs.

(A.D. Karanjkar)
Member (J)