

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 386/2022(S.B.)**

Shri Gajanan s/o Vithal Chopde,
Aged about 49 years,
Occu.: Service, R/o Ghat-Puri Road,
Sant Vihar Colony, Khamgaon,
District-Buldana.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai-400032.
- 2) Divisional Commissioner Amravati,
By-pass Road Camp area Amravati,
District- Amaravat-444602.
- 3) The District Collector Buldana,
Near State Bank of India Square,
District- Buldana, Buldana-443001.
- 4) District Supply Officer,
Buldana District Collectorate Compound,
Buldana, Near State Bank of India. Square,
District Buldana, Buldana- 443001

Respondents

Shri A.P.Sadavarte, Ld. Counsel for the applicant.

Shri H.K.Pande, Ld. P.O. for the respondents.

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

Dated: - 25th July 2023.

JUDGMENT

Judgment is reserved on 19th July, 2023.

Judgment is pronounced on 25th July, 2023.

Heard Shri A.P.Sadavarte, learned counsel for the applicant and Shri H.K.Pande, learned P.O. for the respondents.

2. Case of the applicant is as follows.

By order dated 30.06.2017 the applicant was placed under suspension in contemplation of initiation of departmental inquiry on the following allegation-

ज्याअर्थी, श्री. जी.बी. चोपडे, अ.का. तथा प्रभारी वाहतुक प्रतिनिधी, कॅम्प खामगाव (टेंभुर्णा) गोदाम या पदावर कार्यरत असतांना वाहतुक पास व विवरण - 2 मध्ये खाडाखोड करून अमडापुर ऐवजी चिखली असे (ओव्हर रायटिंग) केले आहे. तसेच वाहतुक पास (TP) क्र. 0009899 ते 0009900 या क्रमांकाच्या को-या TP स्वाक्ष-या करून ठेवलेल्या आहेत. सदर बाब प्रशासकिय दृष्ट्या अतिशय गंभीर आहे. सदर प्रकरणात कामात हयगय व निष्काळजीपणा केलेला आहे.

A committee was constituted to conduct inquiry into the following-

दिनांक २२/६/२०१७ रोजी अन्नधान्य वाहतुकीसाठी वापरात आणलेला ट्रक क्र. एमएच-१९ झेड-२०९७ द्वारे ३५० कट्टे तांदुळासह मौजे शेलूद येथे पोलीस स्टाफ चिखली यांना आढळून आल्याने त्यांनी सदर ट्रक पकडल्या प्रकरणी ट्रक चालक व मालक श्रीनाथ ट्रान्सपोर्ट कंपनी अमरावती यांचेवर जिवनावश्यक वस्तु कायदा १९५५ चे कलम ३,७ व भारतीय दंड संहिता १८६० कलम ३४ अन्वये पोलीस स्टेशन चिखली येथे एफआयआर क्र. ०३२६ दि. २२/६/२०१७ नोंदविलेला आहे. सदर प्रकरणात श्री जी. व्ही. चोपडे, वाहतुक प्रतिनिधी यांना सह आरोपी करण्यात आले आहे, असून त्यांना वि. जिल्हाधिकारी कार्यालयाने निलंबित केलेले आहे. त्याबाबतचे सखोली चौकशी करीता वि. जिल्हाधिकारी, बुलडाणा यांचे आदेश क्र. कावि/अनापु/अकापु/७५४/२०१७ दि.२०.७.२०१७ अन्वये खालील प्रमाणे समिती नेमण्यात येवुन सखोल चौकशी करून चौकशी अहवाल सादर करण्याचे निर्देश देण्यात आले आहे.

On 10.10.2017 the committee submitted report (Annexure A-5)

concluding as follows-

वरिल प्रमाणे चौकशीमध्ये सदर धान्याचा काळाबाजार करण्यासाठी श्री. जी. व्ही. चोपडे वाहतुक प्रतिनिधी यांचा त्यामध्ये प्रत्यक्ष सहभाग आहे हे निश्चीत होत नाही. त्यामुळे त्यांचे विरुद्धचा निलंबनाचा प्रस्ताव मागे घेणे उचित आहे.

In Crime No.326/2017 under Sections 3 and 7 of the Essential Commodities Act one Pannalal Gupta and the applicant were made accused. Pannalal Gupta filed Criminal Application No.551/2017 in the

Hon'ble Bombay High Court for quashing the F.I.R.. It was allowed by Judgment and order dated 03.04.2018 (Annexure A-6).

By order dated 06.12.2018 (Annexure A-8) order of suspension of the applicant was revoked. By communication dated 15.12.2021 (Annexure A-11) respondent no.4 informed resident Deputy Collector (Establishment), Buldhana that no departmental inquiry was proposed to be held against the applicant. On 21.02.2022 the applicant made a representation (Annexure A-12) to respondent no.3 as follows-

उपरोक्त विषयानुसार दि.06/12/2018 चे आदेशानुसार माझे निलंबन मागे घेण्यात आले असून सध्या मी उपविभागीय अधिकारी, कार्यालय, जळगांव जा. येथे कार्यरत आहे. माझ्या विरुद्ध न्यायालयीन प्रकरण प्रस्तावित नाही तसेच विभागीय चौकशी सुध्दा प्रस्तावित करण्यात आलेली नाही.

संदर्भीय अर्जानुसार माझे निलंबन कालावधीतील वेतन व इतर भत्त्यांचे फरकाची रक्कम मला मिळण्याबाबत मी विनंती केली आहे परंतू सदर रक्कम मला अद्यापही अदा करण्यात आलेली नाही. सबब माझा निलंबन कालावधी हा सर्व प्रयोजनार्थ कर्तव्य कालावधी ठरवून मला अनुज्ञेय ठरणारी वेतन व भत्त्याची फरकाची रक्कम अदा करण्याबाबतचे योग्य ते आदेश निर्गमित करण्यास विनंती आहे.

In these facts, which are not disputed, the applicant seeks following reliefs-

- (i) Direct the Respondents to treat the suspension period of the applicant from 30.6.2017 to 06.12.2018 as duty period and further direct to pay the difference of amount of allowance, salary.**
- (ii) Further direct the respondent No.2 to treat the suspension period from 30.6.2017 to 06.12.2018 as duty period in view of the communication dated 05.05.2021 (Annexure-A10) and Report dated 15.12.2021 (Anexure-A-11) further direct to pay the difference of amount of allowance, salary**
- (ii) Direct the Respondent to decide the representation of the applicant dated 21.02.2022 (Annexure-A-12) within a stipulated time of one month.**

3. In their reply respondents 2 to 4, in addition to narrating the facts which are pleaded by the applicant, have pleaded as follows-

Considering the decision of the Review Committee the office of respondent no. 3 reinstated the applicant and therefore, the office of respondent no. 3 had not passed an order under rule 72 (1) and (3) of the Rules, 1981 at the relevant time. Considering the facts and law on record the respondent no. 3 followed the rules of natural justice. The order of respondent no. 3 is just, legal and proper.

4. In the instant case grievance of the applicant is that respondent no.3 has not passed any order as to how period of his suspension is to

be treated. It is the contention of the applicant that his suspension was wholly unjustified and hence period of his suspension should be treated as duty period. For redressal of this grievance the applicant made a representation (Annexure A-12) which has not been decided. In this factual background following order would meet ends of justice.

ORDER

The O.A. is allowed in the following terms-

Respondent no.3 is directed to decide representation dated 21.02.2022 (Annexure A-12) made by the applicant within one month from the date of receipt of this order, and communicate his decision to the applicant forthwith. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 25/07/2023
rsm.

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

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Member (J).
Judgment signed on : 25/07/2023.
and pronounced on