

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 433/2017 (S.B.)

Purushottam Haribhau Chore,
aged about 54 years,
Occ. Service, R/o Kolhe layout,
Godhani Road, Zingabai Takli, Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Department of Rural Development
and water Conservation,
Mantralaya, Mumbai-32.
- 2) Divisional Joint Director of Agriculture,
Nagpur Division, Nagpur.
- 3) District Superintendent Agriculture Officer,
Nagpur.

Respondents

Shri A.Motlag holding for Shri R.V.Shiralkar, Ld. Counsel for the applicant.
Shri M.I.Khan, Ld. P.O. for the respondents.

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

Dated: - 30th October, 2023.

JUDGMENT

Judgment is reserved on 26th October, 2023.

Judgment is pronounced on 30th October, 2023.

Heard Shri A.Motlag holding for Shri R.V.Shiralkar, learned counsel for the applicant and Shri M.I.Khan, learned P.O. for the respondents.

2. On conclusion of departmental enquiry following punishment was imposed on the applicant by order dated 12.02.2013 (Annexure A-1) –

शासन निर्णय श्री. पी. एस. चौरे, तत्कालीन कृषि पर्यवेक्षक, जलालखेडा यांच्याकडून शासन नुकसानीची रक्कम रु.१३,१५,४२९/- (तेरा लाख पंधरा हजार चारशे एकोणतीस फक्त) त्यांच्या वेतनातून दरमहा रु.१०,०००/- (रुपये दहा हजार फक्त) प्रमाणे त्यांच्या सेवानिवृत्ती पर्यंत वसुल करण्यात यावी व उर्वरित रक्कम त्यांच्या सेवानिवृत्तीनंतर सेवानिवृत्ती उपदानातून व इतर अनुषंगिक लाभातून वसुल करण्यात यावी. तसेच त्यांचे सध्याचे वेतन ५ टप्प्याने कायम स्वरूपी खाली आणण्यात यावे. या कालावधीत त्यांना नियमित वेतनवाढी मिळणार नाहीत.

The applicant challenged this order in O.A.No.225/2013. By order dated 26.11.2015 (Annexure A-2) the O.A. was partly allowed as follows-

8. Accordingly, O A. is allowed partly.

(i) The order directing recovery of the amount of Rs. 13,15,429/- is modified and is substituted with the order for recovery of Rs. 6,13,409/- (Rs.13,15,429/-- 7,02,020.25).

(ii) Rest of the order imposing penalty is not interfered.

(iii) There shall be no order as to costs.

By letter dated 29.01.2016 (Annexure A-3) the applicant informed respondent no.2 that in the event of further delay in refunding the amount as per order dated 26.11.2015, he would be constrained to file Contempt Petition. He then filed O.A.No.296/2016 and this Bench disposed it by order dated 30.11.2016 (Annexure A-4) by observing thus-

Heard Shri R.V. Shiralkar, Id. counsel for the applicant and Smt. M.A. Barabde, Id. P.O. for the Respts.

The learned P.O. files the communication dated 29-11-2016 (P-72) mentioning that the bill amount of

Rs.7,02,020/- is sent to the Treasury on 21-11-2016. Thus the grievance of the applicant stands redressed

The learned counsel for the applicant submits that the amount is yet not received. Though it is a formality, it is made clear that if the applicant does not get the amount he can take the available recourse.

The amount was ultimately deposited in the account of the applicant on 08.12.2016 (Annexure A-5). Hence, this O.A. for following relief-

A. Direct the respondents to pay interest on amount of Rs.7,02,020.50/- for the period from 26.11.2015 to 8.12.2016 which was illegally retained by the respondents inspite of order of this Hon'ble tribunal.

3. The O.A. is opposed by respondent no.2 on the following grounds-

(1) The applicant filed O.A.No.296/2016 on 03.05.2016. He cannot, therefore, claim interest for the prior period.

(2) In O.A.No.225/2013 or in O.A.No.296/2016 the applicant did not pray for refund of amount with interest though he could have done so. Therefore, instant claim for interest is barred by constructive res-judicata.

(3) On 13.12.2016 the applicant executed an undertaking (Annexure R-1) as follows-

पावती लिहून देण्यात येते की, मा. प्रशासकीय प्राधीकरण (मॅट) नागपूर महाराष्ट्र येथे दाखल केलेला मुळ अर्ज क्रमांक २९६/२०१६ अन्वये दिनांक २६/११/२०१५ रोजीच्या न्याय निर्णया नुसार तालुका कृषि अधिकारी सावनेर यांचेडून धनादेश क्रमांक ९६०६२७ दिनांक ७/१२/२०१६ अन्वये रुपये ७०२०२०/- (अक्षरी रुपये सात लाख दोन हजार विस फक्त) दि. ७/१२/२०१६ ला प्राप्त झालेला आहे. करीता सदर प्राप्त झालेल्या रकमेबाबत माझा आक्षेप नसून न्यायालयीन प्रकरण बंद करण्यात यावे.

(4) The amount was refunded to the applicant as per order dated 16.11.2016 (Annexure R-2). Some time was needed to obtain administrative approval.

4. I have referred to the undertaking dated 13.12.2016 executed by the applicant. This undertaking was unqualified. By this undertaking the applicant had made his stand clear that his grievance stood redressed in toto. Thereafter, on 19.06.2017 he filed instant O.A. which cannot be reconciled with undertaking given by him.

Consequently, the O.A. shall fail. It is accordingly dismissed with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 30/10/2023
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 : 30/10/2023.
and pronounced on : 31/10/2023.