

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 644 of 2014

Sampat s/o Lahanu Sambare,
Aged about 56 years, Occ. Service,
R/o Plot no.66, Chhatrapati Nagar,
Nagpur.

Applicant.

Versus

- 1) State of Maharashtra
through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.
- 2) The Collector,
Collector office, Civil Lines,
Nagpur-440 001.
- 3) The Sub Divisional Officer,
Civil Lines, Nagpur.
Tq. & dist. Nagpur.

Respondents

**Shri Sukhdeo Dhole, Roshan Dhande, Advocates for the
applicant.**

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

**Coram :- Hon'ble Shri S.S. Hingne,
Member (J).**

Dated :- 02/03/2016.

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ORDER -

The penalty imposed by the SDO, Nagpur (R/3) vide order dated 16-06-2012 (A-2,P-17) withholding of one increment permanently without effect on future increments is the subject matter of this O.A. The said punishment is upheld by the Collector, Nagpur (R/2) in the appellate order dated 31-07-2014 (A-1,P-15).

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

3. At the threshold the attack is made raising the legal point that the copy of the inquiry report was not served to the applicant before passing the impugned order. Not only that but the applicant in the appeal (P-28) has specifically pleaded that the copy of the report was not supplied. However, that aspect is not taken into consideration by the Appellate Authority. It is not the case of the respondent that the copy of the order was served to the applicant.

4. The learned counsel for the applicant strenuously submitted that this has vitiated order. In support of submission he placed the reliance on **Union of India and others Vs. Mohd. Ramzan Khan (AIR,1991 SC, 471)**, wherein it is held that when the disciplinary authority is not the inquiry authority, it is necessary to serve the copy of the report to the delinquent, before passing final order. The Government of Maharashtra has issued the Circular dated

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28-07-1992 laying down such compliance. However, that is not done. In effect the impugned order cannot be said to be illegal and valid.

5. The learned counsel for the applicant also relied on the order dated 27-11-2015 rendered by this Tribunal in O.A. No. 610/2005 (Shri C.S. Dongre Vs. State of Maharashtra). In the similar set of facts the Tribunal quashed the order relying on the view laid down in the Ramzan's case (*cited supra*) which is also followed in **Managing Director, ECIL, Hyderabad Vs. B. Karunakar (1993) (2) CLR 1129** case.

6. The learned P.O. in the alternative has submitted that at the most the matter may be remanded. In **Dongre's** case referred above, it is observed by the Tribunal that normally whenever inquiry is quashed on account of not following the principles of natural justice, the department is given liberty to proceed afresh by removing the defects. However, in the said case holding that the incident was two decades old and the inquiry was not held for years and considering the gravity of the charge it was held not just and fair to allow the department to re-open the inquiry. However in the case in hand, the facts are converse. The matter is not more than decade old. The order was passed just four years back. Moreover the allegations are grave and serious which relate to taking the entry in the Revenue record of the register of sale deed by the private person

ignoring the entry that land was acquired under the provisions of Urban Land Ceiling Act (ULC). Therefore, even though the applicant is on the verge of retirement, it will be proper to give liberty to the department to proceed afresh by removing the defects.

7. Consequently, the O.A. is disposed of in following term :-

(a) The impugned orders dated 16-06-2012 and 31-07-2014 are quashed. The respondents are at liberty to re-open the inquiry to remove the defect and serve copy of inquiry report to applicant and to pass the fresh order. No order as to costs.


sd/-

(S.S.Hingne),
Member (J).

dnk.