

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 682/2020(S.B.)

Umesh s/o Bapuraoji Hajare
Aged about: 62 years
Occupation: Retired as Junior Engineer.
Amravati Irrigation Department
R/O Rajmata Colony No. 1,
Near Rahatgaon Bus stop
Amravati Tq. & Dist. Amravati.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Irrigation Department,
Mantralaya, Mumbai - 400 032.
- 2) The Superintending Engineer,
Upper Wardha Project,
Irrigation Circle, Amravati.
- 3) The Executive Engineer,
Amravati Irrigation Department,
Amravati.

Respondents

Shri V.A.Kothale, Ld. Counsel for the applicant.
Shri M.I.Khan, Ld. P.O. for the respondent no.1.
Shri T.M.Zaheer, Ld. Counsel for the respondents 2 and 3.

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

Dated: - 28th July 2023.

JUDGMENT**Judgment is reserved on 24th July, 2023.****Judgment is pronounced on 28th July, 2023**

Heard Shri V.A.Kothale, learned counsel for the applicant, Shri M.I.Khan, learned P.O. for the respondent no.1 and Shri T.M.Zaheer, Id. counsel for the respondents 2 and 3.

2. Facts leading to this O.A. are as follows. On 29.04.2016 the applicant proceeded on leave purportedly on medical ground. On 23.06.2016 he resumed duties (Annexure A-2) and submitted application in prescribed proforma along with medical certificate. On 30.07.2016 the applicant was served with a charge sheet. It was alleged that he had proceeded on leave without obtaining prior permission. He submitted a reply to the charge sheet on 12.08.2016. The Disciplinary Authority, by order dated 21.09.2016 (Annexure A-4) imposed punishment of censure on him. On 07.10.2016 corrigendum (Annexure A-5) was issued as follows-

विषय :-श्री. उ. बा. हजारे. क.अ. यांचे रजेबाबत

संदर्भ :- या मंडळाचे आदेश क्र. १८३ / उवर्सिमं / प्रलि / विचौ/२०१६. दि.२१/९/२०१६-

विषयांकीत प्रकरणी संदर्भाधीन आदेशानुसार शिस्तभंगविषयक प्रकरणी श्री.

उ.बा. हजारे, क. अ. यांना ठपका ठेवणे ही शिक्षा देण्यात आली आहे.

तसेच सदर आदेशातील प्रतिलिपी २ मध्ये श्री. उ. बा. हजारे, क.अ. यांना दि. २९/४/२०१६ ते २२/६/२०१६ पर्यंतची देय व अनुज्ञेय रजा (परावर्तीत) रजा मंजूर करण्याची कार्यवाही करावी असे आदेशीत करण्यात आले आहे.

त्याऐवजी श्री. हजारे, क.अ. यांना दि. २९/४/२०१६ ते २२/६/२०१६ पर्यंतची देय व अनुज्ञेय रजा (अर्जित रजा) असे वाचावे.

3. On 22.11.2016 following order (Annexure A-3) was passed.

महाराष्ट्र नागरी सेवा (रजा) नियम १९८१ या नियमावलीतील नियम क्र. ५१ नुसार परिशिष्ट एक मधील अ. क्र. ६ चे नियम २९ अन्वये प्रदान केलेल्या अधिकारानुसार श्री. यु. बी. हजारे, कनिष्ठ अभियंता यांची दिनांक २९/४/२०१६ ते दिनांक २२/६/२०१६ पर्यंत ५५ दिवसाची अर्जित रजा शिक्षा आदेशाचे अधीन राहून स्वतःचे आजारपण या कारणास्तव मंजूर करण्यात येत आहे.

The applicant retired on superannuation on 30.11.2016. By order dated 20.04.2017 (Annexure A-6) benefit of leave encashment of 273 days was extended to the applicant. On 28.07.2017 respondent no.3 made a recommendation (Annexure A-7) to respondent no.2 as follows-

संदर्भिय पत्र क्र.१ च्या अनुषंगाने सादर करण्यात येते की, श्री. उ. बा. हजारे, क.अ. (सेनि) यांची.. दि. २९/४/२०१६ ते दि.२२/६/२०१६ पर्यंतची स्वतःच्या आजारपणाकरीता परावर्तीत रजेचा अर्ज वैद्यकीय प्रमाणपत्र नमुना ४ व ५ मध्ये मंडळ कार्यालयास सादर करण्यात आला.

मंडळ कार्यालयाने श्री. उ. बा. हजारे, क.अ. (सेनि) यांची परावर्तीत रजा वैद्यकीय रजा करण्यात आली होती. परंतु नंतर त्यात बदल करून शुध्दीपत्रकाव्दारे परावर्तीत रजा ही अर्जीत रजा करण्यात आली. अर्जीत रजेचे रोखीकरण करतांना पुर्ण ३०० दिवसाचे रोखीकरण न होता २७ दिवस कमी रोखीकरण होऊन श्री. उ. बा. हजारे, क.अ. (सेनि) यांचे अंदाजे रु. ५३,०००/- चे आर्थिक नुकसान झाले व त्यांच्या जमा वैद्यकीय रजा व्यर्थ गेल्या, ही अन्यायकारक बाब त्यांनी सादर केली आहे.

सेवानिवृत्तीनंतर सुध्दा २ महिने श्री. उ. बा.हजारे, क.अ. (सेनि) उपविभागाकडे कनिष्ठ अभियंता नसल्याने क्षेत्रीय कामाकरीता निवृत्तीनंतरही भरपूर सहकार्य केले. परंतु श्री.उ.बा. हजारे, क.अ. (सेनि) यांना कंत्राटी तत्वावर सेवा करार पध्दतीने घेण्यात आले नव्हते. त्यामुळे कामाचा मोबदला देण्यास विभागीय कार्यालय असमर्थ आहे.

उपरोक्त बाबी लक्षात घेता श्री. उ. बा. हजारे, क.अ. (सेनि) यांनी स्वतःची जबाबदारी उत्कृष्टपणे पार पाडली व सेवानिवृत्तीनंतरही शासकीय कामात योगदान दिले आहे.

करीता श्री. उ. बा. हजारे, क.अ. (सेनि) यांची दि.२९/४/२०१६ ते दि.२२/६/२०१६ दरमान्यची ५५ दिवसाची परावर्तीत रजा मंडळ कार्यालयाने अगोदर मंजुर केल्यानुसार वैद्यकीय रजा मंजुर करावी अशी या विभागीय कार्यालयाची शिफारस आहे.

This recommendation was not acted upon. The applicant pursued the matter but to no avail. Hence, this O.A. to extend benefit of leave encashment for further 27 days by treating period of absence of the

applicant from 29.04.2016 to 22.06.2016 as medical leave instead of earned leave.

4. Stand of respondents 2 and 3 is as follows-

Prior to absence of 55 days unauthorized leave, the applicant on 4.4.2016, sought Transfer from his post to some other place and thereby, pressurized the Answering respondent No.2 through illegal means. The request for the same was denied by the answering respondent, he therefore, proceeded on illegal absence from duty for 55 duty from Dt.29.4.2016 to Dt.22.6.2016. The finding on the same was given by the answering respondent No.2 in its Memorandum dt.30.7.2016 issued to the applicant. Moreover, in the Departmental Enquiry held against the applicant, the applicant accepted that he was not ill during that 55 days period but was not willing to work on the present posting and thereby demanded transfer. Upon his admission in departmental Enquiry about his misconduct, the answering respondent No.2 passed the Order of punishment Dt.21.9.2016, "Censure" under Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. The answering respondents showed sympathy to the applicant's request and allowed him to avail 55 days earned leave for his absence period and he was paid full salary benefit for his 55 days absence period and did not punish him with leave without pay.

5. To their reply respondents 2 and 3 have attached a copy of charge sheet dated 30.07.2016 served on the applicant. The applicant has not countered pleading of respondents 2 and 3 by filing a rejoinder.

6. From the impugned corrigendum (Annexure A-5) it becomes apparent that initially medical leave was sanctioned and thereafter the sanctioned leave was directed to be treated as earned leave by issuing the corrigendum. This could not have been done unilaterally. But on account of bar of limitation the O.A. will have to be dismissed. The cause of action arose on 07.10.2016 when corrigendum (Annexure A-5) was issued. Instant O.A. was filed on 01.09.2020. The limitation could not have been saved or extended by making the representation dated 29.05.2020 (Annexure A-1). In the result the O.A. is dismissed with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 28/07/2023
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 : 28/07/2023.
and pronounced on