

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 740/2018(S.B.)

Dattatraya S/o Laxman Pasnurwar,
Aged about 63 years,
Occ. Retired Government Servant,
R/o – 60, Omkar Nagar,
Near Thakkar Colony, Datada Road,
Chandrapur-01.

Applicant.

Versus

- 1) The Chief Secretary,
Home Department,
State of Maharashtra,
Mantralaya, Mumbai-400 032.
- 2) The Divisional Commissioner,
Civil Lines, Nagpur-01.
- 3) The Collector (Revenue),
Chandrapur.

Respondents

Shri S.M.Khan, Ld. Counsel for the applicants.
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

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

Dated: - 11th July 2023.

JUDGMENT

Judgment is reserved on 06th July, 2023.

Judgment is pronounced on 11th July, 2023.

Heard Shri S.M.Khan, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the respondents.

2. Facts leading to this O.A. are as follows.

The applicant was working as Awwal Karkoon in the respondent department at Chandrapur. An offence was registered against him under Sections 7 and 13(1)(d) r.w. 13(2) of the Prevention of Corruption Act. He was arrested on 20.09.2006. He was under suspension from 16.10.2006 to 30.10.2009. On 01.04.2014 he was served with a charge sheet (Annexure A-6). He retired on superannuation on 31.05.2014 (Annexure A-2). The departmental inquiry continued after his retirement. By Judgment dated 17.06.2015 (Annexure A-7) he was acquitted of the offences under Sections 7, 13(1)(d) r.w. 13(2) of the Prevention of Corruption Act. Against the order of acquittal the State preferred appeal which is pending in the Hon'ble Bombay High Court (Annexure R-1). On conclusion of departmental inquiry the inquiry Officer submitted report (Annexure A-8). Charges 1 and 3 were held to be proved. Charge no.4 was held to have been partly proved. Charge no.2 was held to have been not proved by this report dated 24.01.2017.

3. It is the contention of the applicant the after submission of inquiry report nothing has been done. In his representation dated 20.06.2018 (Annexure A-9) the applicant submitted as follows-

दिनांक सद्यस्थिती माझ्या विरुद्धचे लाचलुंचपत प्रकरण क्रमांक ०६/२००७ मध्ये निकाल दिनांक १७.०६.२०१५ रोजी जाहीर करण्यात आले. असुन मला माझ्यावर ठेवलेल्या लाचलुंचपत प्रतिबंधक कायदा १९८८ चे कलम ७ त १३ (१) (ड) अन्वये ठेवण्यात आलेल्या आरोपामधुन निर्दोष सोडुन देण्यात आले उपरोक्त विशेष न्यायाधिश चंद्रपुर यांचे निकालाविरुद्ध लाचलुंचपत खात्याच्या वतीने उच्च न्यायालयाचे खंडपीड नागपुर येथे अपील दाखल करण्यात आले. असुन ते प्रलंबित आहे तसेच माझे विरुद्धचे शिस्तभंगविषयक कार्यवाहीचे प्रकरणात चौकशीची कार्यवाही देखील पुर्ण झाली असुन चौकशी अधिकारी यांचा चौकशी अहवाल देखील आपल्या कार्यालयाला प्राप्त झाला आहे. परंतु मला आपल्या कार्यालयाकडुन कळविण्यात आले आहे की, आपले विभागीय चौकशी प्रकरणांतील अंतीम आदेश न्यायालयीन प्रकरणातील अंतीम आदेशा अधिन राहुन प्रलंबित ठेवण्यात येत आहेत. त्यामुळे मला अनुज्ञेय असणा-या निवृत्ती वेतनाचे लाभापासुन वंचित ठेवण्यात आलेले आहे.

उपरोक्त बाबीसंबंधीत निर्णय घेण्याकरीता यासोबत दैनिक लोकमत दिनांक १९ ऑगस्ट २०१३ प्रसिध्द झालेल्या पेन्शन व ग्रॅच्युइटी ही कष्टार्जीत मालमत्ता या मथळ्याखाली प्रसिध्द झालेल्या बातमीचे कात्रण व त्यांत नमुद भारताचे सर्वोच्च न्यायालयाचे नमुद निकालाची झेरॉक्स प्रत यासोबत अवालोकार्थ तथा योग्य असा निर्णय घेण्याकरीता सादर करीत आहेत.

4. In the aforestated facts the applicant has prayed for following reliefs-

(i) Declare that the issuance of the belated charge sheet and conducting D.E. against the same charge sheet after retirement is illegal and improper.

(ii) Consider the suspension period given to the applicant from dated 16.10.2006 to 30.10.2009 as regular period of service.

(iii) Pay the difference of salary of suspension period with interest thereon.

(iv) Pay the unpaid yearly increments of the year 2007, 2008 and 2009 with arrears and interest thereon.

(v) To pay the regular Pension, Gratuity, Commutation of Pension from the date of retirement with arrears and interest thereon from the date it is due till actual payment.

(vi) Grant any or further relief including costs as may be deemed fit and proper in the circumstances of the case.

5. Stand of respondent no.3 is that departmental inquiry is kept pending because of pendency of criminal appeal filed by the State challenging acquittal of the applicant and hence, the applicant will not be entitled to any relief.

6. Departmental inquiry was initiated against the applicant on 01.04.2014. Thereafter, on 31.05.2014 he retired on superannuation.

The departmental inquiry which had commenced before his retirement continued after his retirement. Rule 27 (2)(a) of the M.C.S. (Pension) Rule, 1982 reads as under-

“2 (a) The Departmental proceedings referred to in sub-rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service.”

Special Court, by Judgment dated 17.06.2015 acquitted the applicant of all the charges. Against this Judgment of acquittal the State preferred appeal. Said appeal is pending. On 24.01.2017 the Inquiry Officer submitted his report. Stand of respondent no.3 is that because of pendency of criminal appeal further steps are not taken in departmental inquiry.

4. The principal relief claimed by the applicant is to grant declaration regarding the very issuance of charge sheet on the applicant belatedly

being illegal and proper. Rule 27(2)(a) quoted above is sufficient to reject this prayer. The other prayers made by the applicant are consequential. In **State of M.P. and Another Vs. Akhilesh Jha and Another, 2022 (1) Mh.L.J., 557**, the Hon'ble Supreme Court, by referring to the facts of the case, has laid down the following ratio-

“The Tribunal would have been justified in directing the expeditious conclusion of the enquiry, but instead, it proceeded to quash the enquiry in its entirety. This, in our view, was clearly impermissible. Every delay in conducting a disciplinary enquiry does not, ipso facto, lead to the enquiry being vitiated. Whether prejudice is caused to the officer who is being enquired into is a matter which has to be decided on the basis of the circumstances of each case. Prejudice must be demonstrated to have been caused and cannot be a matter of surmise.”

5. Under the circumstances discussed above the applicant cannot be granted any of the reliefs sought by him. However, it would be necessary to issue directions to the respondents to take steps so that the departmental inquiry pending against the applicant is concluded expeditiously. The O.A. is, therefore, allowed in the following terms. The respondents are directed to take necessary steps so that the

departmental inquiry pending against the applicant is concluded expeditiously. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 11/07/2023
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 : 11/07/2023.
and pronounced on