

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.812 OF 2018  
(Subject:- Minor Punishment)**

**DISTRICT: - Aurangabad.**

**Shri Bhagwant s/o Prashant Kapale, )**  
Age :37 years, Occ- Service as )  
Sub-Treasury Officer, )  
R/o. C/o. Sub-Treasury Office, )  
Soygaon, Tq. Soygaon, )  
Dist. Aurangabad. )...**APPLICANT**

**V E R S U S**

1. **The State of Maharashtra, )**  
Through : The Principal Secretary )  
Accounts and Treasuries, )  
Finance Department, )  
Mantralaya, Madam Kama Road, )  
Mumbai-32. )
  2. **The Director )**  
Accounts and Treasuries, )  
Mumbai Port Trust, )  
Thakarsi House, 3<sup>rd</sup> Floor, )  
Shurji Vallabhdas Marg, )  
Balard Estate, Forst, )  
Mumbai. )
  3. **The Joint Director, )**  
Accounts & Treasury Office, )  
Lekha Khosh Bhavan, )  
Fajilpura, Aurangabad. )
  4. **The District Treasury Officer, )**  
Hingoli. )...**RESPONDENTS**
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**APPEARANCE** : Shri K.B. Jadhav, learned Advocate  
for the applicant.  
: Shri I.S. Thorat, learned Presenting  
Officer for the respondents.

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**CORAM** : **SHRI V.D. DONGRE, MEMBER (J)**

**DATE** : **30.06.2022**  
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**ORDER**

1. By invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 this Original Application is filed seeking to quash and set aside the punishment order dated 09.04.2018 (Annex. 'A-7') issued by the respondent No.4 i.e. the District Treasury Office, Hingoli thereby imposing the punishment of Censure and also order dated 27.08.2018 (Annex. 'A-9') issued by the respondent No.3 i.e. the Joint Director, Accounts and Treasury Office, Lekha Khosh Bhavan, Fajilpura, Aurangabad thereby rejecting the departmental appeal and confirming the order of punishment imposed by the respondent No.4.

2. The facts in brief giving rise to this Original Application can be summarized as follows:-

- (i) The applicant was initially appointed on 09.02.2004 as a Clerk-Typist. Thereafter he was transferred in the Sub Treasury Office, Vasmat, District Hingoli on 06.07.2010. He was promoted as Senior Clerk on 14.08.2014 and was posted in the office of the respondent No.4 i.e. the District Treasury Office, Hingoli. Thereafter the applicant was promoted as Sub-Treasury Office/Senior Accountant on 25.05.2018 and was posted as Sub-Treasury Office, Soygaon, Dist. Aurangabad. The applicant has worked with the respondents sincerely.
- (ii) It is contended that three charges were allegedly levelled against the applicant. Firstly while applicant was working on the post of Senior Clerk under the control of the respondent No.4, complaint dated 15.01.2016 was registered against the applicant at Hingoli City Police Station, Hingoli. Secondly during that tenure, there were allegations against the applicant that in

spite of work allotted to the applicant for Establishment/Inspection Branch, the applicant submitted written complaint of Compilation/Audit Branch to the District Collector, Hingoli and District Treasury Officer and thereby committed the administrative misconduct. Thirdly during the said tenure there was allegation against the applicant that while passing the bills of the one retired person namely Fajloor Raheman Abdul Razak, the applicant submitted the bills of the said person without deducting the amount of recovery of excess payment of Rs.1,31,708/- as directed by the Accountant General, Nagpur.

- (iii) It is further contended that the respondent No.4 i.e. the District Treasury Officer decided to initiate the departmental enquiry against the applicant under Rule 8 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 for above stated three charges and Memorandum of charges dated 02.04.2016 (Annex. 'A-2') was issued to the applicant. The applicant submitted his reply dated 12.04.2016 (Annex. 'A-3') to the said

memorandum of charges. Thereby he denied the alleged irregularities or the charges committed by him. According to him, the false complaint was registered against him at Police station due to personal grudge. No negligence was committed by the applicant while preparing the bill of the said retired person and that he did not commit any misconduct while working in Establishment/ Inspection Branch.

- (iv) It is further submitted that the respondent No.4 issued order appointing the enquiry officer namely M.S. Falari and the presenting officer for conducting the departmental enquiry against the applicant. The applicant submitted his defense statement before the enquiry officer and requested him to exonerate him of all the charges. It was submitted that there was no documentary evidence placed against him for the alleged charges by the respondent No.4. The enquiry officer, however, proceeded to conduct the departmental enquiry against the applicant. After conducting the departmental enquiry, he

submitted the enquiry report dated 11.11.2016 under forwarding letter dated 11.11.2016 (Annex. 'A-4').

- (v) It is further submitted that after receipt of the enquiry report, the respondent No.4 issued notice dated 14.03.2018 (Annex. 'A-5') to the applicant calling upon his explanation as to why the punishment under Rule 5 (1) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 shall not be imposed upon him. The applicant submitted his reply dated 23.03.2018 (Annex. 'A-6') to show cause notice dated 14.03.2018. Thereby it is contended that the departmental enquiry was not conducted as per the manual of departmental enquiry. The charge Nos. 1 and 2 were not proved against him as reflected in show cause notice dated 14.03.2018 (Annex. 'A-5'). As regards the third charge of preparing bill without deducting the excess payment amount, it is submitted that the oral statement of Sub-Treasury Officer recorded in the departmental enquiry report, who stated that there is no negligence in

preparing the bill of retired person. Moreover, there is no specific documentary evidence to prove the said charge No.3 against him. According to the Sub-Treasury Officer, the bill was passed inadvertently.

- (vi) It is further submitted that without considering the reply, the respondent No.4 issued order of punishment dated 09.04.2018 (Annex. 'A-7) imposing the punishment of Censure holding that the charge No.3 is partly proved but observing that all the persons in the chain are responsible for preparing and approving the bill of retired person without deducting the excess payment of amount.
- (vii) It is further submitted that the applicant preferred the departmental appeal dated 23.04.2018 (Annex. 'A-8') before the respondent No.3 against the order of imposition of punishment by order dated 09.04.2018 issued by the respondent No.4. The respondent No.3, however, dismissed the said departmental appeal filed by the applicant by order dated 27.08.2018 (Annex. 'A-9') confirming

the impugned order of punishment dated 09.04.2018 issued by the respondent No.4.

(viii) In view of above, this application is filed challenging both the orders dated 09.04.2018 (Annex. 'A-7') issued by the respondent No.4 i.e. the District Treasury Officer, Hingoli as well as impugned order dated 27.08.2018 (Annex. 'A-9') issued by the respondent No.3 i.e. the Joint Director, Accounts and Treasury Office, Aurangabad contending that the said orders are passed without taking into consideration the facts on record. Infact the respondent No.4 himself has observed in the punishment order that as per Rule 115 to 117 and 237 of Sub-Treasury Manual, it was necessary to verify and inspect the bills submitted for payments by the Clerk and Sub-Treasury Officer. Moreover, as per G.R. dated 28.03.1995, it was necessary to verify the bills 100% checking by the Treasury officer. However, only the applicant was picked up and the departmental enquiry was held only against him. In view of same, the applicant is meted with

discriminatory treatment. On that ground alone, the impugned orders are liable to be quashed and set aside. Moreover, the impugned orders of punishment are disproportionate to the charges levelled against the applicant. There was no evidence against the applicant to prove and hold the applicant guilty of the charge No.3 and that the applicant is discriminated. In view of same, both the impugned orders are liable to be quashed and set aside.

3. The affidavit-in-reply is filed on behalf of the respondent Nos.1 to 4 by one Dasharath Vitthalrao Jagtap working as the Joint Director Accounts and Treasuries Aurangabad Division Aurangabad. Thereby he denied all the adverse contentions raised in the Original Application.

(i) He has justified both the impugned orders of imposing punishment of Censure upon the applicant contending that the amount of overpayment of Rs.1,31,708/- which was admittedly ordered to be recovered by the office of Accountant General from the gratuity amount of

the retired person Shri Fazloor Raheman Abedul Razzak while preparing the bill of retiral benefits by the applicant. The said amount was not deducted. It is stated that Sub-Treasury Officer is also responsible for not verifying the said defect and sanctioning the bill. However, the punishment is imposed by taking into account the said fact and held that the charge is partly proved against the applicant. The punishment of Censure imposed upon the applicant is commensurate to the partly charge proved against the applicant and therefore, there is no illegality or irregularity in impugned order of punishment issued by the respondent No.4 and dismissal order of departmental appeal issued by the respondent No.3.

4. The affidavit-in-rejoinder is filed by the applicant denying all the adverse contentions raised in the affidavit-in-reply and reiterated the contentions raised in the Original Application.

5. I have heard at length the arguments advanced by Shri K.B. Jadhav, learned Advocate for the applicant on one hand and Shri I.S. Thorat, learned Presenting Officer for the respondents on other hand.

6. Considering the rival facts on record, the Original Application revolves around the short question as to whether the imposition of minor punishment imposed upon the applicant by the respondent No.4 by order dated 09.04.2018 (Annex. 'A-7') and confirming the said order by the respondent No.3 in departmental appeal by order dated 27.08.2018 (Annex. 'A-9') are legal and proper.

7. Perusal of departmental enquiry report dated 11.11.2016 (Annex. 'A-4') would show that the charge No.1 relating to police complaint was not proved against the applicant. The charge No.2 relating to alleged misconduct of making complaint about the work in Establishment/ Inspection Branch where the applicant was posted was partly proved. As per the said report the third charge of preparing bill of retired person namely Shri Fazloor Raheman Abedul Razzak without deducting the recoverable amount as per the

order of Accountant General, Nagpur was partly proved against the applicant.

8. After receipt of the said enquiry report, show cause notice dated 14.03.2018 (Annex. 'A-5') was issued by the respondent No.4 calling upon the applicant as to why punishment of Censure as per Rule 5 (1) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 should not be imposed upon him. In the said notice, the respondent No.4 observed that the charge Nos.1 and 2 were not proved against the applicant thereby agreeing with the findings of the enquiry office in respect of the charge No.1 and disagreeing with the findings in respect of the charge No.2. In respect of charge No.3 also he disagreed and held that it was partly proved. In the said show cause notice itself it is specifically observed that as per Rule 115 to 117 and 237 of Sub-Treasury Manual at Sub-Treasury Office level every bill shall be examined as per Rules by the Clerk as well as Sub-Treasury Officer mandatorily.

9. In the case in hand according to the applicant he has been singled out for holding departmental enquiry and the Sub-Treasury Officer is left out. The departmental enquiry report shows that the then Sub-Treasury Officer Shri S.Y.

Nugravar was examined as witness No.8. He has stated in the cross examination that the bill is inspected 100% in the Sub-Treasury Office and no any short comings were found.

10. It is a fact that in spite of provisions in the Sub-Treasury Manual about the responsibility of the Clerk and concerned Sub-Treasury Officer regarding passing the bills, the departmental enquiry was held in respect of defective bill of retired person only against the applicant. It appears that at departmental level, the Sub-Treasury Officer was found responsible, but no any action was taken against him and he was let off. In view of same, this is a case where equal treatment is not meted out to the applicant. Holding the departmental enquiry only against the applicant is discriminatory treatment and it violates principles of natural justice. The applicant is also entitled for equal treatment as is given to the Sub-Treasury Officer.

11. No doubt, partial responsibility of the applicant in preparing the defective bill of retired person, but punishment imposed upon the applicant does not hold water being discriminatory and against the principles of natural justice.

12. In view of foregoing discussion, in my considered opinion, the impugned orders of minor punishment imposed upon the applicant by the respondent No.4 by order dated 09.04.2018 (Annex. 'A-7') and confirming the said punishment order in departmental appeal by order dated 27.08.2018 (Annex. 'A-9') are not sustainable in the eyes of law. Therefore, those orders are liable to be quashed and set aside. Therefore, I proceed to pass the following order:-

**ORDER**

The Original Application is allowed in following terms:-

- (A) The impugned order of punishment dated 09.04.2018 (Annex. 'A-7') issued by the respondent No.4 i.e. the District Treasury Officer, Hingoli and order dated 27.08.2018 (Annex. 'A-9') issued by the respondent No.3 i.e. the Joint Director, Accounts and Treasury Office, Aurangabad in departmental appeal are quashed and set aside.
- (B) No order as to costs.

**(V.D. DONGRE)**  
**MEMBER (J)**

Place :- Aurangabad  
Date :- 30.06.2022  
SAS O.A.812/2018