

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 892/2022 (S.B.)**

Dadarao Shriramji Kale,  
Aged 61 years, Occ. Retired Govt. Servant,  
R/o Pushpagandha Colony,  
Kathora Road, Amravati.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
Through its Principal Secretary,  
Department of Revenue and Forest,  
Mantralaya, Mumbai – 32.
- 2) Chief Conservator of Forest,  
Near Zilla Parishad,  
Opposite District Court, Amravati.
- 3) Deputy Chief Conservator of Forest,  
Near Govt. Girls High School,  
Amravati.

**Respondents**

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Shri R.V.Shiralkar, Ld. Counsel for the applicant.

Shri A.P.Potnis, Ld. P.O. for the respondents.

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

**Dated: - 11<sup>th</sup> April 2023.**

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**JUDGMENT**

**Judgment is reserved on 27<sup>th</sup> March, 2023.**

**Judgment is pronounced on 11<sup>th</sup> April, 2023.**

Heard Shri R.V.Shiralkar, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the respondents.

2. On 24.04.2018 the applicant was served with a charge sheet. On 30.04.2018 he retired on superannuation. Departmental enquiry was taking inordinately long time to conclude. Therefore, the applicant filed O.A.No.400/2018 before this Tribunal. It was decided by judgment dated 03.08.2020 (Annexure A-1). Though the O.A. was dismissed, this Tribunal directed the respondents to conclude the disciplinary proceedings against the applicant within a period of six months from the date of the order. It was further directed that if departmental enquiry was not completed within six months, the applicant would stand exonerated. On expiry of stipulated period of six months the applicant automatically stood exonerated since the enquiry was not completed within this period. On 25.08.2022 the applicant submitted an application (Annexure A-2) to respondent no.1 to release retiral and other benefits payable to him, with interest but to no avail. Hence, this O.A.

3. In their reply which was initially filed, respondents 2 and 3 have averred as follows. By interim order dated 04.07.2018 passed in O.A.No.400/2018 this Tribunal had directed the respondents not to

proceed with the enquiry till C.A.No.152/2018 was decided. Hence, further proceedings in the enquiry were temporarily stopped. (Record shows that by order dated 21.09.2018 C.A.No.152/2018 was disposed of. Thus, the proceedings in departmental inquiry could not have made any progress only between 04.07.2018 and 21.09.2018). Against the judgment dated 27.08.2018 initially delivered in O.A.No.400/2018 dismissing the same, the applicant filed Rev.A.No.30/2019. By order dated 05.03.2020 said review application was allowed and O.A.No.400/2018 which was dismissed by judgment and order dated 27.08.2019, was restored and heard again. Thereafter, by judgment dated 03.08.2020 O.A.No.400/2018 was dismissed but with a direction to the respondents to complete the enquiry within six months from the date of the judgment and order i.e. 03.08.2020. The judgment further specified that if the enquiry was not completed within six months from the date of the order, the applicant would stand exonerated. Substantial part of retiral benefits was paid to the applicant. The enquiry was on the verge of completion. It could not be completed within the time stipulated by judgment dated 03.08.2020 because of prevalence of Covid-19 pandemic. Charge sheet containing serious charges was served on the applicant before his retirement i.e. on

24.04.2018. By order dated 25.06.2018 (Annexure R-4) Enquiry Officer was appointed. By order dated 17.05.2019 (Annexure R-5) Presenting Officer was appointed. By communication dated 16.09.2019 the Enquiry Officer sought time of two months to complete the enquiry.

4. In his rejoinder the applicant has contended that the period of six months stipulated by this Tribunal by judgment and order dated 03.08.2020 came to an end on 02.02.2021. Therefore, further proceedings in the departmental enquiry would be non-est as no extension of period to complete the enquiry was sought by respondent department and once the order dated 03.08.2020 attained finality by virtue of want of challenge to the same before the Hon'ble High Court, all that remained was to carry the said order to its logical conclusion which would mean that the applicant stood exonerated on 02.02.2021.

5. In their additional reply respondents 2 and 3 have reiterated the grounds raised in their initial reply. In addition, they have contended that in view of ratio laid down in the **State of Madhya Pradesh and Others Vs. Akhilesh Zha and Another – 2022 (1) MHLJ] 557** by the Hon'ble Supreme Court, the applicant cannot succeed unless he demonstrates that prolonged pendency of departmental enquiry has caused prejudice to him. Now departmental enquiry is complete. By

enquiry report dated 21.11.2022 (Annexure R-2) three out of four charges laid against the applicant are held to have been proved. On the same day enquiry report was forwarded to the Disciplinary Authority. For all these reasons the O.A. deserves to be dismissed.

6. It is the contention of the applicant that since he stood exonerated of all charges leveled against him in the departmental enquiry on expiry of period of six months from the date of the judgment and order dated 03.08.2020, his retiral and other benefits could not have been withheld on the pretext of pendency of departmental enquiry. There is merit in this submission. It is not the case of the respondents that they had either challenged judgment dated 03.08.2020 or sought extension from this Tribunal to complete the enquiry. Under the circumstances all that remained to be done was carrying the judgment dated 03.08.2020 into effect. By virtue of judgment dated 03.08.2020 the applicant stood exonerated on 02.02.2021. What was done during the enquiry after 02.02.2021 was in consequential. For these reasons the O.A. deserves to be allowed. Hence, the order.

### **ORDER**

1. The O.A. is allowed in the following terms-

2. The respondents are directed to release within two months from today retiral and other benefits payable to the applicant which are withheld on the ground of pendency of departmental enquiry.
3. The respondents are further directed to consider claim of the applicant for grant of benefits of Assured Progression Scheme – on its own merits.
4. Issue of interest is kept open.
5. No order as to costs.

(M.A.Lovekar)  
Member (J)

Dated – 11/04/2023  
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 : 11/04/2023.  
and pronounced on