

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO.934 OF 2022**

DISTRICT : THANE

Mr. Uttam Balu Sagbhor,)
Age 55 years, Terminated from the post of)
Junior Clerk, Office of Agriculture Officer,)
R/at Room No.404/A, Sahi Vinayak Mahal,)
Opp. Chetna Hindi High School, Haji Malang Rd.)
Kalyan (East), District Thane)..Applicant

Vs.

1. The State of Maharashtra,)
Through the Secretary, Agriculture,)
Animal Husbandry, Diary Development &)
Fisheries Department, Mantralaya,)
Mumbai)
2. The Governor of Maharashtra,)
Through their Secretary, Raj Bhavan,)
Walkeshwar Road, Malbar Hill, Mumbai35)..Respondents

Shri K.R. Jagdale – Advocate for the Applicant

Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Smt. Medha Gadgil, Member (A)
DATE : 20th February, 2023
PER : Smt. Medha Gadgil, Member (A)

J U D G M E N T

1. The applicant prays that the impugned order dated 13.5.2022 passed by the Respondent by which his services were terminated from the post of Agriculture Officer, Class-II (Junior) for failure to pass the Departmental Examination during the probation period of 2 years in requisite time and chances be quashed and set aside and the applicant be granted all the consequential service benefits. Ld. Advocate for the applicant submits that the OA may be disposed off in terms of the decision of the Hon'ble Tribunal dated 6.2.2023 in OA No.114 of 2022 as it is covered by this judgment.

2. The applicant joined the service as Agriculture Officer, Class-II (Junior) on 27.10.1997 through MPSC. By order dated 3.1.1998 applicant was sent for training. On 10.7.2015 a detail proposal was submitted by Taluka Agriculture Officer, Wada, Palghar to Sub-Divisional Agriculture Officer, Wada, Palghar for exemption from passing Accounts Examination due to crossing age of 45 years. However, without taking into account the proposal abruptly the services of the applicant were terminated by order dated 13.5.2022 without issuing the show cause notice as well as full-fledged Departmental Enquiry. The applicant has preferred appeal on 5.7.2022 and it is still pending.

3. Learned counsel for the applicant submits that he relies on the judgment of this Tribunal dated 6.2.2023 in O.A. No.114 of 2022, Shri Ankush Nana Dhonde Vs. The State of Maharashtra. In the said case, his colleague who was appointed in the Agriculture Department did not clear the departmental examination and his services were also abruptly terminated

without issuance of show cause notice like the present applicant. The said Original Application was allowed. His termination order was set aside and applicant was reinstated in service. Learned counsel for the applicant submits that his case is similar to that of Shri Ankush Nana Dhonde.

4. Learned counsel for the applicant points out G.R dated 1.11.1977, which states that a Government employee is exempted from passing the departmental examination after attaining the age of 45 years. He further relies on the G.R dated 1.3.2018 by which the policy decision was taken to exempt a Government employee from passing the departmental examination after completion of age of 50 years.

5. Learned CPO relies on the affidavit in reply dated 11.11.2022 filed by Dipak Surendra Kute, Administrative Officer in the office of Divisional Joint Director of Agriculture, Konkan Division, Thane and submits that the decision to terminate the services of the applicant is taken as the applicant did not pass the departmental examination within a stipulated period as is prescribed by the Rules.

6. The case of the applicant stands on merit. The facts unfolded before us disclose that the Respondent-Government has allowed the applicant to work even after 3 years of the stipulated period given for passing the departmental examination. Once the applicant is allowed to continue on the same post, the Respondent-State loses the right to take any action against the applicant on this ground. It is not the case of that the Respondent-State was kept in dark by the applicant about passing of the departmental examination. In the reply there is no explanation why show cause notice was not given.

7. We are surprised to know the fact that the Respondent-State terminated the services of the applicant without giving notice to the Applicant which is violative of Article 311 (1) of the Constitution of India. We do not accept the submissions made by the learned CPO and so also the averments made in the affidavit in reply dated 11.11.2022. We make it clear that the principle of 'No Work No Pay' will not come in the way of the applicant as the applicant was illegally terminated by the Respondent-State.

8. In view of the above, we pass the following order:-

- (a) The Original Application is allowed.
- (b) The impugned order dated 13.5.2022 terminating the services of the applicant is illegal, void and hereby quashed and set aside.
- (c) The applicant's services is to be treated as continuous service from 27.10.1997 onwards.
- (d) The Respondents are directed to reinstate the applicant in service on or before 8.3.2023.
- (e) The applicant is entitled to all consequential service benefits as per the rules.
- (f) No order as to costs.

Sd/-
(Medha Gadgil)
Member (A)
20.2.2023

Sd/-
(Mridula Bhatkar, J.)
Chairperson
20.2.2023

Dictation taken by : S.G. Jawalkar