

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.245 OF 2018**

**DISTRICT:- DHULE**

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Shri Bhapkar Vasant Dada,  
Age : 60 years, Occ. Retired Talathi,  
R/o: Deopur, Dhule.

...APPLICANTS

**V E R S U S**

1. The State of Maharashtra,  
Through the Secretary,  
Revenue Department,  
Mantralaya, Mumbai – 400 032.

2. The Collector,  
Dhule.

3. The Sub Divisional Officer,  
Dhule Division, Dhule.

4. The Tahsildar,  
Sindkheda,  
Tq. & Dist. Dhule.

.... RESPONDENTS

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APPEARANCE :Shri Shrikant Patil, Advocate for the  
Applicants.

:Shri V.R.Bhumkar, Presenting Officer for  
the respondents.

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CORAM : JUSTICE A.H.JOSHI, CHAIRMAN

AND

ATUL RAJ CHADHA, MEMBER (A)

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PER : JUSTICE A.H.JOSHI, CHAIRMAN

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Reserved on : 21-02-2019

Pronounced on : 27-02-2019  
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**ORDER:**

1. Heard Shri Shrikant Patil learned Advocate for the Applicants and Shri V.R.Bhumkar learned Presenting Officer for the respondents. Perused the record.
2. Applicant was chargesheeted by the Competent Authority in relation to recording approval of mutation entries while he was working as a Talathi on account of misconduct committed by him during the period 01-01-1994 to 31-05-1998.
3. The charge was for tampering the approval by forging signatures of Tahsildar. The disciplinary enquiry resulted into adverse finding as regards the charges and applicant was punished by permanently reducing his scale of pay (from 5000-8000) to 4500-7000.
4. Applicant preferred an appeal in which the punishment has been confirmed. The applicant had approached this Tribunal by filing O.A.No.310/2015, wherein the order of appellate authority was set aside and appeal was remanded to the Collector, Dhule for consideration in accordance with law after hearing the applicant afresh.

5. After decision, Appellate Authority has passed the order dismissing the appeal dated 09-10-2017 against which the applicant has approached this Tribunal.

6. Present O.A. was heard at length. During the course of hearing, learned Advocate for the applicant has taken instructions and has restricted his submissions to the extent of following points:

*“VI. The Maharashtra Civil Services (Discipline and Appeal) Rules, 1979, Sec. 5 contemplates penalties for minor punishment whereby it is mentioned that reduction to a lower stage in the time scale of pay for a specified period. So employee cannot put on lower stage permanently.*

*VII. The Maharashtra Civil Services (Pay) Rules, 1981, Sec 42 contemplates “if a Government servant is reduced as a measure of penalty to a lower stage in his time scale, the authority ordering such reduction shall state the period for which it shall be effective and whether on restoration, the period of reduction shall also operate to postpone future increment and if so to what extent.”*

(Quoted from p.b.p.9)

7. Based on the averments contained in the O.A., learned Advocate for the applicant further argued that the punishing authority has a duty to reduce the scale of pay to

a lower scale and has power to fix up the duration of such reduction, however, recording of such duration does not necessarily mean to reduce it permanently.

8. Learned Advocate for the applicant further submits and states that the reduction in the pay should not exceed 3 years in fairness and be restricted to 3 years at the most.

9. Learned P.O. in reply to the submissions has argued as follows:

“The charge of forgery is very serious matter and the punishment order by the Competent Authority and confirmation by the Collector need not be interfered with.”

10. After considering the rival submissions, this Tribunal is of the considered view that the charge of forgery is really of grave nature and no lenient view ought to have been taken.

11. Had this Tribunal to decide over the aspect of quantum of punishment and had the competent authority ordered the penalty of removal or dismissal, this Tribunal may have refrained from interfering in the same, because once the misconduct is proved the punishment is always a

matter of prerogative of the employer/competent authority so long as it is shown that the punishment is not vitiated it being excessive and disproportionate and/or induced due to factors such as *mala fides* etc.

12. However, on facts of the present case, this Tribunal is required to speculate as to what may have been the circumstances and circumstances which may have constrained the punishing as well as the appellate authority to elect the lenience and to continue him in employment but on a lower pay scale and not to punish him by severe penalty, though found guilty of serious misconduct.

13. This latitude resorted to by the Competent Authority which is mystic and this mysticness alone has to be a cause for this Tribunal to take said lenience further, however, to restrict the reduction in the scale of pay to a span of 10 years from the date of its enforcement. Let the reformatory attitude or approach be coached further for the same mystic reason as had weighed before the competent disciplinary and appellate authority.

14. This Tribunal, therefore, directs that the lower scale of pay i.e. 4500-7000 to which the applicant has been brought

shall remain in operation for a period of 10 years from the date of inception of punishment. Thereafter, the applicant shall be entitled to be fixed in the regular scale of pay of 5000-8000 (or corresponding revised pay if applicable) by giving fixation to the applicant at the corresponding basic which the applicant may be drawing to the scale of 4500-7000.

15. In the result, the O.A. is partly allowed and the punishment is interfered with to limited extent as specified in foregoing paragraph 14 hereinabove.

16. Original Application stands disposed of accordingly as partly allowed.

17. Parties are directed to bear their own costs.

**(ATUL RAJ CHADHA)**  
**MEMBER (A)**

**(A.H.JOSHI)**  
**CHAIRMAN**

**Place : Aurangabad**  
**Date : 27-02-2019.**