

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.130/2016

DISTRICT: BEED

Vinayak s/o. Balkrushna Kulkarni,
Age : 82 years, Occu. : Nil,
R/o. Pimpalner,
Taluka & District. Beed.

...APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai-32.
- 2) District Collector,
Collector Office, Beed.
- 3) The Sub-Divisional Office,
Sub-Divisional Office, Beed.
- 4) The Tahsildar,
Tahsil Office, Beed,
Dist. Beed.

...RESPONDENTS

APPEARANCE :Shri M. C. Ghode Advocate for the
Applicant.

:Shri D.R.Patil Presenting Officer for the
respondents.

CORAM : B. P. Patil, Member (J)

DATE : 25th July, 2018

O R A L O R D E R
[Delivered on 25th day of July, 2018]

By filing the present O.A. the applicant has prayed to
direct the respondents no.2 to 4 to release the entire

benefits of post of Talathi which has been withheld on account of his suspension w.e.f. 28-08-1969 in view of his acquittal in criminal case R.C.C. No.26/1984 decided on 29-08-2011 by the Chief Judicial Magistrate, Beed.

2. It is contention of the applicant that he was working as a Talathi with the respondent no.2 to 4 during the period 1963 to 1969. He was suspended by the respondent no.2 and 3 on 28-08-1969 on the ground of false allegations of misappropriation and report submitted by the then Tahsildar. Since then, he was not permitted to perform his duties as Talathi. One Dnyanoba Shankarrao Bansode then Naib-Tahsildar filed a complaint against him alleging that the applicant misappropriated Government fund of Rs.2693.31 (Rs. Two thousand six hundred ninety three and thirty one paise only). Police registered a crime against the applicant on 04-06-1982 and submitted a chargesheet to the competent criminal court. The case bearing R.C.C. No.26/1984 was registered against the applicant. Thereafter, trial was conducted and the applicant was acquitted by Chief Judicial Magistrate (CJM), Beed on 29-08-2011.

3. Meanwhile, the applicant attained age of superannuation and retired from the service. It is his contention that after acquittal in the criminal case, he approached the respondents by filing a representation dated 01-11-2014 and requested to give him entire benefits of service and pensionary benefits but the respondents had not considered his representation and not granted benefits to him. Therefore, the applicant has approached this Tribunal and sought direction to respondent no.2 to 4 to release service benefits to him in view of his acquittal in criminal case bearing R.C.C. No.26/1984 decided on 29-08-2011 by the C.J.M. Beed.

4. Respondent nos.2 to 4 have filed their affidavit in reply and resisted the contentions of the applicant. It is their contention that the application is not filed within limitation. The applicant was acquitted by the C.J.M., Beed on 29-08-2011 but the applicant has not filed the present Original Application in time, and therefore, it is barred by limitation. It is their further contention that the applicant has misappropriated Government funds of Rs.2693.31. Therefore, a crime was registered against him on 04-06-1982. The police investigated the crime and filed a chargesheet against him which was numbered as R.C.C.

No.26/1984 in the Court of C.J.M., Beed. After registration of the crime against the applicant, respondents suspended the applicant and initiated separate departmental enquiry against the applicant on different charges. An opportunity to be heard was given to the applicant in the departmental enquiry. After giving an opportunity of hearing to the applicant, Enquiry Officer submitted his report. On the basis of the report submitted by the Enquiry Officer, the applicant was dismissed from service by order dated 23-04-1974.

5. The applicant has challenged the said order of dismissal by preferring appeal before the Collector, Beed but the Collector, Beed dismissed the appeal on 28-09-1974 and upheld the order of the Sub Divisional Officer, Beed. The applicant has not challenged the said order till date, and therefore, the order attained finality.

6. It is their contention that the C.J.M., Beed has acquitted the applicant on the ground of non-production of sufficient evidence by the prosecution, and therefore, the applicant cannot claim reinstatement in service in view of the said decision. It is their contention that the applicant has been dismissed from the service on the basis of report

in the departmental enquiry and the appeal filed by the applicant has also been rejected but the applicant has suppressed the said material facts and filed the present O.A. Therefore, they have prayed to reject the O.A.

7. I have heard Shri M.C.Ghode Advocate for the Applicant and Shri D.R.Patil Presenting Officer for the respondents. Perused documents placed on record by the parties.

8. Admittedly, the applicant was appointed as a Talathi in the year 1963. Admittedly, a criminal case had been registered against the applicant for misappropriation of Government amount of Rs.2693.31. Prior to that, he was suspended w.e.f. 28-08-1969 by then Tahsildar, Beed on account of misappropriation of Government money. Thereafter, the chargesheet was issued to him and departmental enquiry had been initiated against him. It is not disputed that a criminal case bearing R.C.C. No.26/1984 had been decided by C.J.M., Beed on 29-08-2011 and applicant was acquitted from the charges levelled against him.

9. Learned Advocate for the applicant has submitted that the applicant was suspended on the allegations that he

misappropriated Government money to the tune of Rs.2693.31. A case had been registered against him in that regard. He has submitted that R.C.C. No.26/1984 registered in the court of C.J.M., Beed had been finally decided on 29-08-2011 and the applicant came to be acquitted. He has argued that since the applicant was suspended in the year 1969 on the allegations of misappropriation of Government money, respondents ought to have reinstated him after his acquittal in the criminal case. He has submitted that after the acquittal, the applicant had approached respondents by filing representation dated 01-11-2014 but the respondents had not taken any action in the matter. Therefore, the applicant has approached this Tribunal. He has submitted that the applicant has been acquitted from the charges levelled against him. Therefore, it is just and proper to reinstate the applicant in service and to give service benefits as well as the pensionary benefits by allowing the present O.A.

10. Learned P.O. has submitted that the applicant has suppressed the material facts while approaching this Tribunal. He has submitted that the applicant was suspended on 28-08-1969 as he misappropriated

Government money. Thereafter, departmental enquiry had been initiated against him. Opportunity of hearing was given to the applicant and then the Enquiry Officer submitted his report. On the basis of his report, Sub Divisional Officer, Beed, being the disciplinary authority dismissed the applicant from the service by order dated 23-04-1974. He has submitted that the applicant has challenged the said order before the Collector, Beed by preferring appeal but the appeal came to be dismissed on 28-09-1974 and the order passed by the Sub Divisional Officer, Beed dismissing the applicant was confirmed. He has submitted that the applicant has suppressed the said material facts and approached this Tribunal. Applicant has not come with clean hands and he has misled the Tribunal. Therefore, the applicant is not entitled to get relief as sought. He has further submitted that the applicant had been dismissed in the year 1974 after due enquiry and the order passed by the appellate authority i.e. Collector, Beed had not been challenged by the applicant till today, and therefore, the order of dismissal of the applicant from service attained finality. Therefore, the present O.A. is not maintainable and he has accordingly prayed to dismiss the O.A.

11. On perusal of the record, it reveals that the allegations of misappropriation of Government money of Rs.2693.31 had been levelled against the applicant, and therefore, criminal case had been registered against him. Not only this but since the charges of misappropriation of Government money were made against the applicant, he was suspended by the Tahslidar, Beed by order dated 28-08-1969, and thereafter, a departmental enquiry had been initiated and conducted. Opportunity of hearing was given to the applicant. After conclusion of hearing in the enquiry, the report was submitted and applicant was held guilty of the misconduct. Consequently, disciplinary authority i.e. Sub Divisional Officer, Beed passed the order dated 23-04-1974 and dismissed the applicant from the service.

12. Being aggrieved by the said order, the applicant preferred the appeal before Collector, Beed. After hearing the applicant, the Collector, Beed dismissed the appeal on 28-09-1974 and confirmed the order of dismissal of the applicant from the service passed by Sub Divisional Officer, Beed. The applicant had not challenged the said order till today, and therefore, the order of dismissal of the applicant

from Government service attained finality. Since the applicant had already been dismissed from the service, the applicant is not entitled to get any service as well as the pensionary benefits. Merely because he has been acquitted in the criminal case in the year 2011, applicant is not entitled to get benefits as claimed by him. The applicant has suppressed the material facts regarding his dismissal from service, initiation of departmental enquiry, decision thereon, appeal preferred by him challenging the order passed by the disciplinary authority and decision thereon. On that ground also, the O.A. deserves to be dismissed.

13. Since the applicant had been dismissed from the service, he is not entitled to get relief as claimed. Therefore, no direction as claimed by the applicant can be issued. There is no merit in the O.A. Consequently, it deserves to be dismissed.

14. In view of the discussion in the foregoing paragraphs, O.A. is dismissed without any order as to costs.

(B. P. PATIL)
MEMBER (J)

Place : Aurangabad
Date : 25-07-2018.