

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD

ORIGINAL APPLICATION NO.735/2016

DISTRICT: NANDED

Kisanrao S/o. Govindrao Shinde,
Age: 61 years, Occ: Retired,
R/o. Dugaon, Tq. Biloli,
District: Nanded.

...APPLICANT

V E R S U S

- 1) The State of Maharashtra
Through The Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai-32.
- 2) The Divisional Commissioner,
Aurangabad Division,
Aurangabad.
- 3) The Collector,
Collector Office, Nanded.
- 4) The Accountant General-II,
Nagpur.

...RESPONDENTS

APPEARANCE :Shri Kakasaheb B. Jadhav learned
Advocate for the Applicant.

:Smt. Resha Deshmukh learned
Presenting Officer for the respondents.

CORAM : Hon'ble Shri B.P.Patil, Member (J)

DATE : 25th July 2017

...2

ORAL ORDER:-

Heard Shri Kakasaheb B. Jadhav learned Advocate for the Applicant and Smt. Resha Deshmukh learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant has been held guilty in the departmental enquiry and he was punished by the order dated 29th March, 2015 (page 40) passed by the Collector, Nanded, and accordingly, his pay has been reduced to lowest stage by way of punishment. Thereafter, the applicant has preferred departmental appeal against the said order before the Divisional Commissioner, Aurangabad. But the appeal was dismissed on 11th March, 2016 (page 48) by the Divisional Commissioner. He has submitted that in view of the provisions of Rule 5(1)(vi) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979, it is necessary to specify the time from which the reduction to a lower time scale of pay has to be made. Therefore, the impugned orders passed by

the Collector, Nanded and the Divisional Commissioner, Aurangabad are not executable and same required to be quashed and set aside.

3. Learned Advocate for the applicant has further submitted that the applicant has retired on 31-12-2012 but he is not receiving regular pension and other pensionary benefits. Therefore, he has prayed to direct the respondents to send proposal in that regard.

4. Learned P.O. has submitted that period for which reduction to a lower pay has to be made has not been specified in the impugned order passed by the Collector, Nanded. Therefore, she prayed to pass necessary orders.

5. I have gone through the impugned order passed by the Collector, Nanded (page 40) on 29-03-2015. Operative order of which runs as under (page 41):

^^&%%vkn\$ k %&

Jh dsth- f'kns rRdk- eMG vf/kdkjh] I xjkGh] rk- fcykyh I /; k I okfuorR eMG vf/kdkjh] okukGk rgfl y

dk; kly;] ekgj ; kps egkj k"V" ukxjh I dk ¼f' kLr o vfi y½
 fu; e 1979 e/khy fu; e 5¼1½¼l gk½ ud kj R; kps oru
 cMM fdeku oru fuf' pr ¼eMG vf/kdjh I dxkly I e;
 Jskhr½ dj.; kph f' k{k ns; kr ; s s

I nj vkns kph uln ; kps I dxkly s[kr@I dk i qLrd r
 ?ks; kr ; su r l k vuq kyu vgoky ; k dk; kly; kl I knj
 djkok-**

6. On perusal of the above order, it reveals that the Collector, Nanded has passed the said order under Rule 5(1)(vi) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. Rule 5(1)(vi) reads as under:

"5. Penalties ,- (1) Without prejudice to the provisions of any law for the time being in force, the following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Government servant, namely :-

Minor penalties-

(i)

(ii)

(iii).....

(iv)

(v)

(vi) reduction to a lower time-scale of pay, grade, post or service for a period to be specified in the order of penalty, which shall be a bar to the promotion of the Government servant during such specified period to the time-scale of pay, grade, post or service from which he was reduced, with direction as to whether or not, on promotion on the expiry of the said specified period,-"

7. According to the abovesaid provisions disciplinary authority has to specify the period for which the punishment for reduction to a lower time scale has been awarded but no such time is specified in the impugned order dated 29-03-2015. Therefore, the impugned order is not in accordance with the provisions of Rule 5(1)(vi) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. The impugned order is vague and ambiguous and therefore, it cannot be enforced. Said fact has not been considered by the Divisional

Commissioner, Aurangabad while deciding the appeal.

8. In these circumstances, it is just and proper to quash and set aside the impugned order passed by the Collector, Nanded dated 29-03-2015 and order dated 11-03-2016 passed by the Divisional Commissioner, Aurangabad by allowing the O.A. Therefore, O.A. is allowed. Impugned orders passed by the Collector dated 29-03-2015 and Divisional Commissioner dated 11-03-2016 are quashed and set aside and the matter is remanded back to the Collector, Nanded for deciding punishment to be imposed on the applicant after giving him opportunity of hearing. Respondent no.3 Collector, Nanded is further directed take decision on the proposal of granting regular pension and pensionary benefits to the applicant, within 3 months from the date of this order. No order as to costs.

(B. P. PATIL)
MEMBER (J)