

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**  
**BENCH AT AURANGABAD.**

**DIST. AURANGABAD.**

**ORIGINAL APPLICATION NO.232/2015.**

Mohd. Anwar Mohd. Ibrahim,  
Age 70 years, Occu. Pensioner,  
r/o Plot No.8, Bhagatsingh Nagar,  
behind Saurabh Mangal Karyalaya  
near Roshan Masjid, Garkheda,  
Aurangabad.

-- APPLICANT.

**V E R S U S**

1. The State of Maharashtra  
Copy to be served with the C.P.O.  
MAT, Mumbai, Bench at Aurangabad.
2. The Secretary,  
Department of Irrigation,  
Mantralaya, Mumbai 32.
3. The Superintending Engineer,  
Aurangavbad Irrigation Circle,  
Aurangabad.

-- RESPONDENTS.

**APPEARANCE** : Shri DR Irale Patil, learned  
Advocate for the Applicant.

: Shri DR Patil, learned P. O.  
for the Respondents no.1 & 2.

: Shri SD Dhongde, learned Advocate  
for the Respondent No.3.

**CORAM** : **Hon'ble Shri Rajiv Agarwal, Vice Chairman (A)**  
&  
: **Hon'ble Shri JD Kulkarni, Member (J).**

**DATE** : 20.10.2015.

**JUDGMENT**

**(Delivered on 20/10/ 2016.)**

(Per: Hon'ble Shri J.D. Kulkarni, Member (J))

1. Applicant Mohd. Anwar S/o Mohd. Ibrahim was Deputy Entineer, Minor Irrigation Department (EGS) at Ambejogai. The Departmental Enquiry was initiated against him as regards the misconduct committed by him during the period 13.3.1985 to 20.7.1987. He was kept under suspension on 4.7.1995 and was relieved from suspension on 4.10.1999.

2. In the D.E. the final order was passed by the competent authority on 15.4.1999 whereby his two future increments were stopped permanently and it was ordered that an amount of Rs.26,507/- be recovered from his pay. The applicant has filed appeal against the order of

punishment in the D.E. before the appellate authority. The appeal was dismissed on 29.1.2002. He then filed review petition against the order passed by the appellate authority and the said review petition was also dismissed by the Govt. on 27.1.2006. Being aggrieved by the said decisions the present O.A. has been filed by the applicant.

3. The applicant is claiming the relief as under :-

a) The Hon'ble Tribunal may be pleased to pass necessary order and stay the effect and implementation of impugned orders 1) Govt. order No.D.L.I.2501 (274/2001)/Dakshata-2 issued by Secretary Irrigation Department Mantralaya Mumbai 32 dt. 19.7.2001 2) Order No.D.L.I.2594/115/(4155) Dakshata dt.29.1.2002 and 3) Communication No. Misc. 2505/11584 (314)/205) Dakshata-2 dt.27.01.2006 communicated by Desk Officer Jalsampada Vibhag Mantralaya, Mumbai-32 during pendency of the original application?

4. The Respondent no.2 justified the order of punishment by various authorities in its reply affidavit. It is the case of the Respondents that, due enquiry was conducted as per the provisions of the rules by giving full opportunity to the applicant and principles of natural justice were followed and there was no violation of any of

the rules. An enquiry report was submitted on 14.1.1997 and the defence submitted by the applicant was considered. Not only that the appellate authorities have also confirmed the order passed by the competent authority.

5. We have heard Shri DR Irale Patil, learned Advocate for the Applicant, Shri DR Patil, learned Presenting Officer for the Respondents no.1 & 2 and Shri SD Dhongde, learned Advocate for the Respondent no.3. We have also gone through affidavit, reply affidavit as well as rejoinder affidavit and the various documents placed on record.

6. The only material point to be considered in this O.A. is “Whether the decision taken by the various competent authorities in the Departmental Enquiry against the Applicant is legal and proper” ?

7. Though the Advocate for the Applicant submits that, the due procedure was not followed in the D.E. and that due opportunity was not given to the applicant, there is

nothing on record to support such contentions. Even the perusal of the O.A. nowhere makes out any justified ground to show that, the impugned orders are illegal. The only ground which seems to have some substance is that, the order in D.E. was passed on 15.4.1999 and the final order in the review petition is passed on 27.1.2006 and in the meantime the applicant got retired on superannuation on 30.11.2002. Even accepting the fact that, there was delay in deciding the appeal and the review petition that itself can not be a ground to say that, injustice has been caused on the applicant.

8. We have perused the charges framed against the applicant in the D.E. The said charges are reproduced in the order dated 13.1.2011 placed on record at paper book page nos.67 to 69 (both inclusive). It seems that, the work done under the supervision of applicant was verified and it was noticed that, the actual work done was less to the tune of 17,509 sq. mts. and the applicant has recorded false measurement in the measurement book and thereby misappropriated an amount of Rs.3,08,758/- and he was

jointly and severally responsible for such misappropriation. The respondents were put to loss for Rs.3,08,758/-. The Enquiry Officer came to the conclusion that, the loss to the tune of Rs.80,000/- was proved and attributed to the applicant and therefore, it was decided to recover that amount from the applicant's pay.

9. The applicant was kept under suspension from 4.7.1995 to 4.10.1999 and since the charges against the applicant were proved, the Govt. came to the conclusion that, the suspension period shall be treated as suspension period for the purposes of pension and to give 95% of the pay and allowances to the applicant during this period. This was intimated to the applicant by letter dated 19.7.2001.

10. The applicant preferred an appeal against the said order. The applicant's appeal was dismissed vide impugned order dated 29.1.2002 and it was directed that, 30% of the amount which is to be recovered towards overpayment shall be recovered in 26 instalments of Rs.1000/- each and remaining amount out of 26,507/- be

recovered i.e. Rs.507/- from the last instalment. The review petition filed by the applicant against said order also came to be dismissed vide impugned order dated 27.1.2006.

11. We have perused all the orders passed by the competent authorities, which are assailed in this O.A. We are satisfied that, the applicant could not bring on record any ground from which it can be said that the penalty imposed upon the applicant was in any manner disproportionate or illegal. On the contrary, considering the charges against the applicant in the D.E. we feel that, most lenient view has been taken by the respondent authorities against the applicant. There is nothing on the record to show that, no principles of natural justice has been followed or that no opportunity was given to the applicant to defend the inquiry and most surprisingly it is also not the case of the applicant.

12. In view of the discussions in foregoing paragraphs, we are therefore, satisfied that, it is not a fit case to interfere

in the various impugned orders passed by the competent authorities. Hence, we pass the following order.

ORDER.

- i) The Original Application is dismissed.
- ii) No order as to costs.

**MEMBER (J)**  
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**VICE CHAIRMAN (A)**



