

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMABI
BENCH AT AURANGABAD.

DIST.HINGOLI.

ORIGINAL APPLICATION NO.799/2012.

(Subject :- Departmental Enquiry)

Ramesh S/o Gangaram Mali,
Age 43 years, Occu. Service,
R/o Government Quarters,
Opp. Of State Bank of Hyderabad,
Hingoli, Dist.Hingoli.

-- **APPLICANT**

VERSUS

1. The State of Maharashtra
Through its Secretary,
Department of Finance,
Mantralaya, Mumbai-400 032.
2. The District Treasury Officer,
i.e. Disciplinary Officer,
Hingoli, Dist. Hingoli.
3. The Joint Director,
Accounts and Treasury,
Aurangabad Division,Aurangabad.

-- **RESPONDENTS.**

APPEARANCE : Shri H. P. Jadhav, learned Advocate holding for
Shri S. J. Salunke, learned Advocate for the
Applicant.

: Shri D. R. Patil, learned Presenting Officer for the
Respondents.

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

DATE : 15.12.2016.

ORDER.

(Per : Hon'ble Shri Rajiv Agarwal, Vice Chnairman)

1. Heard Learned Advocate Shri H.P. Jadhav holding for learned Advocate Shri S.J. Salunke for the Applicant and Shri D.R. Patil, learned Presenting Officer for the Respondents.

2. This O.A. has been filed challenging the order of the Respondent no.2 dated 12.10.2011 withholding 12 increments of the Applicant permanently and ordering recovery of Rs.42,852/- from him. The Applicant has also challenged the order of the Respondent no.3 dated 26.7.2017 confirming the order of the Respondent no.2 in appeal.

3. Learned counsel for the Applicant argued that the Applicant had been made a scapegoat in the matter. It was not his responsibility to sanction family pension, which was allegedly paid to a wrong person. The Applicant was working as Clerk-cum Typist in Hingoli District Treasury since 1.8.1999. The charge against him that some person posed as widow of one deceased Govt. employee by name Baliram Narayan Ingole. The applicant has signed the papers

as witness. This unauthorized women drew family pension from 1.5.2006 to 30.11.2006, amounting to Rs.37,592/-. Learned Counsel for the Applicant contended that the photograph of the woman who posed as widow of late Baliram N. Ingole by name Gayabai Ingole was there in the service records of Baliram Ingole. The pension paid to wrong person was ordered to be recovered from the applicant along with interest. Learned Counsel for the Applicant stated that the Departmental Enquiry against the Applicant was conducted without considering the Applicant's side. The Applicant was not responsible for preparing pension papers of widow of Baliram Ingole. The disciplinary authority had ignored the deposition of witnesses, which did not support the case against the Applicant. The Applicant was not heard about the quantum of punishment and the punishment was imposed in violation of the principles of natural justice. The Appellate Authority did not give proper opportunity of hearing to the Applicant. Learned Counsel for the Applicant prayed that the impugned orders may be quashed and set aside.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant had identified the unknown female, who had claimed family pension as wife of Late Shri Baliram Ingole.

The Applicant had prepared the pension papers and had signed the same as witness, which resulted in a women getting family pension as widow of late Shri Ingole, though, she was not his widow. The applicant was punished after holding a Departmental Enquiry which was held as per procedure laid down in the law and the applicant was given full opportunity to defend himself. The Applicant had prepared family pension case showing one Sumanbai as Gayabai and signed as witness personally. The applicant has been punished rightly. The Appellate Authority had also considered all the issues raised by the applicant in appeal and passed a reasoned order. Learned P.O. argued that there is no merit in this O.A. and it may be dismissed. He contended that impugned order dated 12.10.2011 has been withdrawn and fresh order dated 24.6.2013 has been issued. This O.A. has, therefore, become infructuous.

5. We find that the Enquiry Officer, in his report dated 4.10.2011 (Exhibit "B") has concluded that charges against the Applicant were not proved. The Disciplinary Authority had recorded detailed reasons as to why it did not agree with the findings of the Enquiry Officer and had tentatively concluded that the charges were proved. That can be seen from page nos.47 to 51 of the Paper Book. It was

signed by the Disciplinary authority on 12.10.2011. The order of punishment is also issued on 12.10.2011. The Applicant has claimed in ground VII (page 7 of O.A.) that the punishment was awarded to him without hearing him. However, it appears, that on 6.6.2013, a notice was issued to the Applicant by the Respondent no.2, giving his reasons for disagreeing with the findings of the E.O. and after considering the reply of the Applicant dated 15.6.2013 the order dated 24.6.2013 was passed imposing the same penalty. The applicant had filed appeal against the aforesaid order, which is still pending before the Appellate authority. This is stated in para 15 of the affidavit in reply filed on behalf of the Respondent no.1 to 3 on 23.9.2013. it reads :

“ The deponent further say and submit that, since the authority has served revised order dated 24.6.2013 to the applicant and against this order he has filed Appeal before the Respondent No.3 on dated 5.8.2013 which is still pending therefore the present Original Application is premature, hence liable to be dismissed as infructuous.”

6. The Applicant has not disclosed these facts in the O.A. He has not sought amendment of the O.A. to bring these facts on record. It is clear that the Respondent no.2 had withdrawn order dated 12.10.2011 and passed a fresh dated 24.6.2013. The

Applicant had filed appeal against the order dated 24.6.2013 on 1.8.2013 , and a copy of the same is available on paper no.91 of the O.A. These facts mentioned in the affidavit in reply have not been controverted by the Applicant. This O.A. is clearly infructuous and is disposed of accordingly with no order as to costs. Stay order granted on 16.10.2012 stands vacated.

MEMBER (J)

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VICE CHAIRMAN