

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.1064 OF 2024**

**DISTRICT : PUNE**

**SUB : Renewal of Tenure of Suspension**

Namdev Suresh Bhandalkar )  
Age: 33 yrs., Occupation: Nil )  
Address: Kothale, Tal. Purander, Dist. Pune. )....Applicant

**Versus**

1. The Divisional Commissioner, Pune Division )  
Dist. Pune. )
2. The Tahsildar, Purander, Tal. Purandar, )  
Dist. Pune. )
3. The Sub Divisional Officer-cum-Sub )  
Divisional Magistrate Daund-Purander, )  
Dist. Pune. )...Respondents

Shri S. D. Patil, learned Advocate for the Applicant.

Shri A. D. Gugale, learned Presenting Officer for the Respondents.

CORAM : Hon'ble Shri M. A. Lovekar, Vice-Chairman

Reserved on : 06.02.2025

Pronounced on : 10.02.2025

**JUDGEMENT**

Heard Shri S. D. Patil, learned Advocate for the Applicant and  
Shri A. D. Gugale, learned Presenting Officer for the Respondents.

2. The Applicant was appointed as 'Police Patil' of Village Kothale by order dated 16.12.2017 by the Respondent No.3 for a period of 5 years. One Shri Santosh Jagtap filed a complaint dated 29.04.2022 against the Applicant. The Respondent No.3 took cognizance of the complaint and initiated enquiry against the Applicant. As tenure of 5 years of the Applicant was to end on 17.12.2022, he applied for renewal of the same by application dated 17.12.2022. By the impugned order dated

06.03.2023 (at page 96), the Respondent No.3 imposed punishment of suspension as provided under Section 9(d) of the Maharashtra Village Police Act, 1967, on the Applicant. This order states –

**“आदेश**

ज्याअर्थी, पोलीस निरीक्षक जेजूरी पोलीस स्टेशन यांनी पोलीस पाटील कोथळे यांचेबाबत अहवाल सादर केलेला आहे. त्यानुसार तक्रारी अर्जदार संतोष जगताप व पोलीस पाटील कोथळे नामदेव भंडलकर यांना त्यांचे म्हणणे मांडणेची संधी देणेत आलेली आहे.

ज्याअर्थी, तक्रारी अर्जदार श्री.संतोष जगताप यांनी त्यांचे तक्रारीमध्ये केलेले आरोप गंभीर स्वरूपाचे आहेत. संतोष जगताप यांनी केलेल्या आरोपाचे स्वरूप पहाता पोलीस पाटील म्हणून काम करताना पोलीस पाटील यांनी पारदर्शकपणे काम करणे आवश्यक असताना तसे केलेचे दिसून येत नाही. त्यामुळे पोलीस पाटील कोथळे यांचे कृत्य हे बेजबाबदारपणाचे व गैरवर्तणूकीचे असे दिसून येत आहे.

ज्याअर्थी, शासनाचे प्रतिनिधी म्हणून पोलीस पाटील यांनी त्यांचे जबाबदारी कर्तव्य व कामे पार पाडलेली नसल्याने, महाराष्ट्र ग्रामपोलीस अधिनियम १९६७ मधील कलम ९ प्रमाणे कर्तव्यात कसून केलेला आहे. त्यानुसार त्यांचेवर कारवाई करण्याचे निष्कर्षाप्रत आलो आहे.

सबब, मी उपविभागीय दंडाधिकारी दॅंड पुरंदर मला प्राप्त झालेल्या अधिकाराचा वापर करून खालीलप्रमाणे आदेश देत आहे.

**आदेश**

“ श्री. नामदेव सुरेश भंडलकर पोलीस पाटील कोथळे, ता.पुरंदर यांना महाराष्ट्र ग्रामपोलीस अधिनियम १९६७ मधील कलम ९ (ड) नुसार दिनांक ०६/०३/२०२३ पासून निलंबित करीत आहे.”

The order dated 06.03.2023 was maintained by the Respondent No.1 by passing order dated 04.10.2023. Hence, this application impugning the orders dated 06.03.2023 and 04.10.2023, and seeking direction to the Respondents to renew term of the Applicant by further 5 years.

3. Stand of the Respondents is as follows :-

On 29.08.2022 departmental enquiry was initiated against the Applicant. Tenure of the Applicant ended on 17.12.2022. Departmental Enquiry against the Applicant concluded thereafter on 03.03.2023. Pursuant to the report of enquiry dated 03.03.2023, the impugned order

dated 06.03.2023 was passed which was maintained by the Appellate Authority.

4. Contention of the Applicant is that Departmental Enquiry was not conducted as per Rules and hence, the impugned orders founded on the same cannot be sustained. In support of this contention, reliance is placed on the Judgment of this Bench dated 30.04.2024 in **O.A.No.180/2023 (Mahadeo Vasant Sapkal V/s Divisional Commissioner, Pune Division, Pune-1 & 3 Ors.)**. In this case, it is observed –

*“ 10. The appointment, duties as well as procedure for imposing penalties to Police Patil are governed by Maharashtra Village Police Act, 1967. Section 9 of Maharashtra Village Police Act, 1967 provides for the penalties for misconduct committed by Police Patil which is as under:-*

*“9. Any Police-Patil or member of a village establishment liable to be called on or for the performance of Police duties, who shall be careless, or negligent in the discharge of his duties or guilty of any misconduct shall be liable to the following penalties, namely:—*

- (a) censure;*
- (b) recovery from his remuneration of the whole or part of any pecuniary loss caused to Government;*
- (c) fine, not exceeding his remuneration for a month;*
- (d) suspension, for a period not exceeding one year;*
- (e) removal from service, which shall not disqualify from future employment under Government;*
- (f) dismissal from service which shall ordinarily disqualify from future employment under Government.*

*Any of the penalties, mentioned in clauses (a) to (d) may be imposed by any Executive Magistrate not below the rank of Taluka Magistrate, and the penalties mentioned in clauses (e) and (f) may be imposed by any Executive Magistrate not below the rank of Sub-Divisional Magistrate who is competent to make the appointment of the Police-patil.”*

11. Whereas Rule 9A of Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Services) Order, 1968 provides for procedure to be observed for imposing penalties which is as under:-

*“9A - Procedure to be observed for imposing penalties:*

*(1) No penalty shall be imposed on a Police Patil under clause (a) or (f) of Section 9 of the Act, unless the procedure prescribed in rule 55 of the Civil Services (Classification, Control and Appeal) Rules is followed.*

*(2) No penalty shall be imposed on a Police Patil under any other clause of the said Section 9, unless the procedure prescribed in rule 55A of the said rules is followed.”*

*12. Notably, ‘Order of 1968’ has been later amended by Maharashtra Village Police Patil (Recruitment, Pay, Allowances and other Conditions Services) (Amendment) Order, 1985 and in Clause 9A of ‘Order of 1968’ following amendments are done:-*

*“1. This order may be called the Maharashtra Village Police Patil (Recruitment, Pay, Allowances and other Conditions of Service) (Amendment) Order, 1985.*

*2. In clause 9A of the Maharashtra Village Police Patil (Recruitment, Pay, Allowances and other Conditions of Service) Order, 1968:*

*(a) In sub-clause (1), for the words, figures and brackets “rule 55 of the Civil Services (Classification, Control ad Appeal) Rules”, the words, figures and brackets “rules 8 and 9 of the Maharashtra Civil Services (Discipline & Appeal) Rules 1979 shall be substituted.*

*(b) In sub-clause (2), for the words, figures and letter “rule 55A of the said rules”, the words, figures and brackets “rule 10 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 shall be substituted.”*

*13. Thus in effect for imposing penalties, the procedure contemplated in Rule 8 and 9 of ‘D & A Rules of 1979’ is required to be observed scrupulously. Rule 8 and 9 of ‘D & A Rules of 1979’ provides for issuance of detailed charge-sheet with articles of charges, appointment of Enquiry Officer and recording of evidence of witnesses with opportunity of cross examination and to examine defence witnesses etc. Suffice to say, for imposing penalty, regular DE as contemplated under ‘D & A Rules of 1979’ is mandated.*

*14. As the charges of neglect against the applicant are serious it is important to follow the principles of natural justice and give him an opportunity to be heard. In this case the SDO instead of conducting DE as contemplated in law terminated the service of the applicant. The SDO was required to adopt and follow the procedure as mandated in law in terms of Maharashtra Village Police Patils (Recruitment, Pay, Allowances and other Conditions of Services) Order, 1968. He was required to issue charge sheet and then to take further steps in terms of Rule 8 & 9 of MCS (Discipline & Appeal) Rules, 1979 in which there is inbuilt provision for filing written statement, record of evidence, cross-examination, examination of defence witness, so that delinquent is given full opportunity to defend him.”*

Advocate Shri Patil for the Applicant submitted that in the instant case procedure under Rules 8 and 9 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 was not followed and hence, the enquiry proceeding stood vitiated. In reply it was submitted by the Presenting Officer that in the instant case, procedure under Rule 10 of the 'Rules of 1979' was required to be followed since the punishment was imposed under Section 9(d) and it was not passed either under Rule 9(a) or 9(f) of the 'Act of 1967'. This submission of the Presenting Officer is fully supported by the aforequoted provisions. The judgment of this Bench dated 30.04.2024 arose out of a case wherein punishment of dismissal was imposed. This punishment is provided in Section 9(f) of the 'Act of 1967'. As per amended order, before imposing punishment either under Section 9(a) or 9(f) of the 'Act of 1967' procedure under Rules 8 and 9 of the 'Rules of 1979' is to be followed whereas to impose punishment under Sections 9(b), 9(c), 9(d) or 9(e) of the 'Act of 1967' procedure under Rule 10 of 'Rules of 1979' is to be followed. It was submitted by the Presenting Officer that in this case procedure under Rule 10 of 'Rules of 1979' was followed. This Rule reads as under :-

**"10. Procedure for imposing minor penalties.** (1) *Save as provided in sub-rule (3) of Rule 9, no order imposing on a Government servant any of the minor penalties shall be made except after,-*

*(a) informing the Government servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehavior on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;*

*(b) holding an inquiry in the manner laid down in Rule 8, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;*

*(c) taking into consideration the representation, if any, submitted by the Government servant under Clause (a) of this rule and the record of inquiry, if any, held under Clause (b) of this rule;*

*(d) recording a finding on each imputation of misconduct or misbehavior; and*

*(e) consulting the Commission, where such consultation is necessary.*

*(2) Notwithstanding anything contained in Clause (b) of sub-rule (1), if in a case it is proposed, after considering the representation, if any, made by the Government servant under Clause (a) of that sub-rule, to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the Government servant or to withhold increment of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period an inquiry shall be held in the manner laid down in sub-rules (3) to (27) of Rule 8, before making any order of imposing on the Government servant any such penalty.*

*(3) The record of the proceedings in such cases shall include-*

*(i) a copy of the intimation to the Government servant of the proposal to take action against him:*

*(ii) a copy of the statement or imputations of misconduct or misbehavior delivered to him:*

*(iii) his representation, if any:*

*(iv) the evidence produced during the inquiry:*

*(v) the advice of the Commission, if any;*

*(vi) the findings on each imputation of misconduct or mis-behavior; and*

*(vii) the orders on the case together with the reasons therefor.”*

5. The Presenting Officer placed on record 'Roznama' of the enquiry held against the Applicant. It reads as under:-

“रोजनामा

दिनांक	तपशिल
२९.०८.२०२२	<p>श्री.भंडलकर उपस्थित</p> <p>PI – जेजुरी अहवाल देण्यात यावा</p> <p>श्री. जगताप उपस्थित</p> <p>PI – जेजुरी गैरहजर</p> <p>म्हणणे देणेकामी १२.०९.२०२२</p>

१२.०९.२०२२	श्री.भंडलकर उपस्थित श्री. जगताप उपस्थित तोंडी युक्तीवाद किंवा म्हणणे सादर पु.ना. २६.०९.२०२२
१२.०९.२०२२	दि. २६.०९.२०२२ रोजी कार्यालयीन सुटटी असल्याने पु.ना.०७.१०.२०२२
०७.१०.२०२२	श्री.भंडलकर उपस्थित
१०.१०.२०२२	श्री.जगताप यांनी दिलेल्या म्हणण्याप्रमाणे PI-Jejuri यांचा अहवाल घेण्यात यावा.
३०.०१.२०२३	श्री.जगताप यांनी email वर म्हणणे सादर श्री.भंडलकर उपस्थित म्हणणे सादर, पु.ना.१३.०२.२०२३
१३.०२.२०२३	श्री.जगताप यांचे म्हणणे email वर प्राप्त श्री.भंडलकर उपस्थित अर्ज – अंतीम संधी २७.०२.२०२३
२७.०२.२०२३	श्री.जगताप गैरहजर श्री.भंडलकर उपस्थित म्हणणे सादर.

From the opening portion of the 'Roznama', it can be gathered that there was no compliance of Rule 10(1)(a) of the 'Rules of 1979'. This defect will vitiate the enquiry.

6. There is one more ground which renders the impugned punishment unsustainable. The 'Operative Part' of the Order dated 06.03.2023 is as under:-

“ श्री. नामदेव सुरेश भंडलकर पोलीस पाटील कोथळे, ता.पुरंदर यांना महाराष्ट्र ग्रामपोलीस अधिनियम १९६७ मधील कलम ९ (ड) नुसार दिनांक ०६/०३/२०२३ पासून निलंबित करित आहे.”

Section 9(d) of the 'Act of 1967' reads as under :-

*“(d) suspension, for a period not exceeding one year;.....”*

The order of punishment of suspension ought to have stated for how long it was to subsist. Such punishment could not exceed one year but it could be for any duration of less than one year.

7. It may also be stated that though tenure of the Applicant ended on 17.12.2022, the impugned order was passed on 06.03.2023 and it presumably continued to subsist even thereafter. By specifying duration of order of suspension such anomalous situation could have been avoided. The discussion made so far will show that the orders dated 06.03.2023 and 04.10.2023 cannot be sustained.

8. Other prayer of the Applicant is that the Respondents be directed to renew his tenure by further 5 years. This prayer is stoutly opposed by newly added Private Respondent i.e. Respondent No. 4. The Applicant has placed on record communication dated 23.08.2024 by which his request for renewal of tenure has been rejected. For the reasons stated hereinabove, the Original Application is partly allowed in the following terms :-

### **ORDER**

Orders dated 06.03.2023 and 04.10.2023 are quashed and set aside. Since the communication dated 23.08.2024 rejecting prayer of the Applicant to renew his tenure was based on orders dated 06.03.2023 and 04.10.2023 which are quashed and set aside by this judgment, the Respondents are directed to consider a fresh case of the Applicant for renewal of his tenure on its own merits, and within one month from

today. The decision taken in this behalf shall be communicated to the Applicant forthwith. In case, the Applicant is aggrieved by said decision, he would be at liberty to approach this Tribunal.

9. No order as to costs.

**Sd/-**

**( M. A. Lovekar )**  
**Vice-Chairman**

Place: Mumbai

Date: 10.02.2025

Dictation taken by: V. S. Mane

*D:\VSM\VSO\2025\Judgment 2025\SB\O.A. 1064 of 2024 renewal of tenure of suspension.doc*