

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 280 OF 2022

DISTRICT :- BEED.

SHARAD UTTAM MALSHIKARE,

Age: 38 Years; Occu: Service as
Jailor Grade-II,
R/o: Govt. Quarters No. 1,
Beed District Prison,
Beed-Ahemadnagar Road, Beed.

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APPLICANT

V E R S U S

1. **The State of Maharashtra**
Through : The Secretary,
Home Department, Mantralaya,
Mumbai 400032.

2. **The Additional Director General
of Police & Inspector General of Prison,**
M.S., Pune.

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RESPONDENTS

APPEARANCE : Shri K.B. Jadhav, learned counsel for the
applicant.

: Shri V.R. Bhumkar, learned Presenting Officer for
the respondent authorities.

**CORAM : HON'BLE JUSTICE V.K. JADHAV, VICE CHAIRMAN
AND
: HON'BLE VINAY KARGAONKAR, MEMBER (A)**

Reserved on : 12.03.2025

Pronounced on : 20.03.2025

O R D E R

[Per : Shri Vinay Kargaonkar, Member (A)]

1. Heard Shri K. B. Jadhav, learned counsel for the
applicant and Shri V.R. Bhumkar, learned Presenting Officer for
respondent authorities

2. Brief Facts:

The applicant has filed this Original Application challenging the departmental enquiry initiated against him by the charge sheet dated 21.08.2015 issued by respondent no. 1. The applicant also seeks directions to the respondents to complete his probation period and grant all consequential benefits including annual increments and promotions that have been withheld due to the pending departmental proceedings.

The case of the applicant revolves around the incident of 31.03.2015, when five prisoners escaped from Nagpur Central Prison by cutting the window rods of the barracks. The applicant was suspended on 02.04.2015 by respondent no. 2, and subsequently, a charge sheet was issued on 21.08.2015 under Rule 12 of the M.C.S. (Discipline & Appeal) Rules, 1979. Four charges were leveled against the applicant and others regarding negligence in duty performance and security lapses in the prison.

3. Pleadings and Arguments by the Applicant

(i) The applicant was appointed as Jailor Grade-II on 07.12.2012 and underwent training from 05.01.2014 to 23.01.2015 at Daulatrao Jadhav Jailors Training College, Yerwada, Pune. He joined Nagpur Central Prison on 27.01.2015, and thus worked for only 63 days (effectively 53 days) before the incident occurred. The applicant was appointed as Discipline Officer at the main gate of Nagpur Central Prison from 01.02.2015.

(ii) In his reply dated 10.09.2015 to the charge sheet, the applicant denied all allegations, stating that he had properly conducted duty at the main gate and performed rounds

throughout the entire jail on the day of the incident, including inspecting the compound wall with one Agase. He also checked milk bags at the main gate but could not be present at all places simultaneously. The applicant highlighted that the five prisoners escaped from barrack no. 6, which was under the supervision of other employees who had not conducted their duty properly.

(iii) The applicant's suspension was revoked on 13/15.07.2016, and he was reinstated subject to the decision of the departmental enquiry and posted at Amravati Central Prison. He joined there on 18.06.2016. On 18.12.2016, the applicant was relieved from Amravati Central Prison to attend the departmental enquiry before the enquiry officer at G.A.D., 7th Floor, Mantralaya, Mumbai. He appeared before the enquiry officer on 20.12.2016, and was subsequently summoned for further hearings.

(iv) The applicant has made multiple efforts to expedite the conclusion of the departmental proceedings. On 21.09.2017, he requested respondent no. 2 to issue a certificate of completion of probation period and grant annual increments, subject to the decision of the departmental enquiry. However, due to the pending enquiry, his probation period remained incomplete while other employees had their probation periods completed vide order dated 21.06.2018. The applicant again requested respondent no. 1 on 11.12.2019, to complete the pending departmental enquiry, pointing out that as per the enquiry manual, it should be completed within six months.

(v) The applicant was transferred to Beed District Prison on 24.10.2018, where he continues to work. Despite his repeated requests, including another application on 15.06.2021 requesting completion of his probation period and extension of

annual increments, the departmental enquiry has remained pending. The applicant has submitted all necessary certificates and examination results, including MS-CIT certification and departmental examination results, to fulfil the requirements for completion of probation.

(vi) The crux of the applicant's argument is the inordinate delay in the departmental proceedings. He submits that approximately 6 years and 6 months have passed since the date of the charge sheet, yet not a single witness out of the ten listed has been examined, and no final order has been passed. The applicant contends that this long delay in conducting the departmental enquiry violates the judgment of the Hon'ble Apex Court in Prem Nath Bali Vs Registrar, High Court of Delhi and Another (AIR 2016 SCC 101), which mandates that departmental enquiries should be concluded within 6 months, or at most within one year if there are unavoidable reasons.

(vii) Furthermore, the applicant argues that the enquiry was initiated under Rule 12 of the M.C.S. (D&A) Rules but subsequently continued under Rule 8, which is not legally tenable and should be quashed. The applicant also points to the State Government's Circular dated 21.02.2015, which directs that departmental enquiries be completed within 6 months, and argues that the respondents are not following their own guidelines.

(viii) The applicant cites precedents where this Hon'ble Tribunal has allowed identical applications and quashed enquiries on the ground of unexplained delay, relying on the Prem Nath Bali judgment. He contends that the actions of the respondent authorities are discriminatory and victimizing, causing him severe career setbacks due to withheld financial benefits.

(ix) In view of these facts and circumstances, the applicant prays that the original application be allowed, the departmental enquiry initiated against him by respondent no. 1 be quashed and set aside, and the respondents be directed to issue a certificate of completion of his probation period and release his annual increments and other service benefits forthwith.

4. Pleadings and Arguments by the Respondents

(i) The respondents have submitted that the applicant was working as a Jailor Group-II at Nagpur Central Prison from 07.12.2012 to 02.04.2015. The charges against the applicant stem from a serious security breach that occurred on 31.03.2015, when five inmates of Raja Gaus Gang escaped from the Prison by cutting the iron rod of Circle no.1 (Badi Gol) barrack no.6 while the applicant was on duty as Orderly Officer at the main gate. This grave incident demonstrated lethargy on the part of the applicant, amounting to serious misconduct in his official capacity.

(ii) Following this incident, the Inspector General of Police (Prison), Eastern Region, Nagpur conducted a preliminary enquiry and submitted a report dated 10.04.2015. Based on this report, a charge sheet was issued against the applicant and nine other delinquent officers, and a joint departmental inquiry was initiated through Government Memorandum, Home Department, dated 21.08.2015. The applicant was suspended on 02.04.2015 but later reinstated on 15.07.2016, subject to the final decision of the departmental enquiry.

(iii) The respondents emphasize that the charges against the applicant are serious in nature, involving negligence and irresponsibility in duty. As Orderly Officer of Nagpur Central Prison, the applicant had significant duties and responsibilities as per Chapter 14 Rule 20 of the Maharashtra Prison Manual

1979. All four charges levelled against him fall within the scope of these duties. The respondents contend that the applicant utterly failed in discharging his responsibilities, which directly led to the escape of dangerous criminals who posed a threat to society.

(iv) Addressing the applicant's claim of delay in the departmental proceedings, the respondents point to multiple factors that contributed to the extended timeline. After the appointment of the Inquiry Officer and Presenting Officer by Government order dated 12.01.2016, a primary hearing was scheduled on 20.12.2016, with further hearings planned for 10.01.2017 and 15.02.2017. However, several administrative challenges arose during this period.

(v) The respondents highlight that the delay in concluding the inquiry stemmed partly from the delinquents themselves demanding various additional documents, which took time to process. Furthermore, the initial Inquiry Officer was transferred, necessitating the appointment of a new Inquiry Officer vide Government Order dated 25.02.2020. The new officer arranged a preliminary hearing for 27.03.2020, but this coincided with the nationwide lockdown declared due to the COVID-19 pandemic. Access to Mantralaya was severely restricted from March 2020, leading to the cancellation of the scheduled hearing. As the pandemic situation worsened, in-person proceedings could not resume immediately due to strict protocols implemented to prevent the spread of the virus in government workplaces.

(vi) Despite these challenges, the respondents demonstrate efforts to advance the proceedings when possible. The Secretary and Special Inquiry Officer, General Administration Department, held a preliminary hearing on 19.10.2020.

Additionally, through Government letters dated 30.09.2020, 19.03.2021, and 02.09.2021, the Inquiry Officer was repeatedly urged to complete the pending departmental inquiry at the earliest.

(vii) Regarding the applicant's probation period, the respondents note that his request to extend the period of probation was approved until the completion of the inquiry, as communicated through Government letter dated 24.07.2019. This demonstrates that the administrative processes continued despite the challenges in concluding the inquiry.

(viii) The respondents directly counter the applicant's reliance on the Prem Nath Bali judgment and other precedents, arguing that these are not applicable to the specific facts and circumstances of the present case. They submit that the applicant has filed the Original Application prematurely, and the grounds of challenge are misconceived and legally untenable. As the employer, the respondents assert their right to initiate and complete disciplinary proceedings against employees for serious breaches of duty.

(ix) The respondents further contest the applicant's argument that the charge sheet and departmental inquiry proceedings should be quashed due to delay. They emphasize that many of the delays were caused by circumstances beyond their control, particularly the unprecedented restrictions imposed during the COVID-19 pandemic, which severely limited administrative functioning across government departments.

(x) Importantly, the respondents point out that the departmental inquiry is currently in its final stages. Witnesses have been examined, and the proceedings are progressing

toward completion. This underscores the respondents' commitment to concluding the matter despite the challenges encountered.

(xi) The respondents also note that a co-delinquent, Shri Vaibhav Atram (Jailor Group 01), filed Original Application No. 727/2021 before the Hon'ble Maharashtra Administrative Tribunal, Bench at Nagpur, seeking to quash the Departmental Inquiry. While this application was allowed on 23.03.2022, the State has decided to challenge this judgment through a Writ Petition submitted to the Government Pleader at the Hon'ble High Court, Mumbai Bench at Nagpur on 18.10.2022, after consultation with the Law and Judiciary Department.

(xii) In light of these facts and circumstances, the respondents maintain that the applicant is not entitled to the relief sought, as the application lacks merit and should be dismissed with costs. They reiterate their commitment to completing the departmental inquiry expeditiously while emphasizing the gravity of the charges and the importance of maintaining discipline and accountability within the prison system.

5. Reasoning and Conclusion:

Having carefully considered the pleadings and arguments from both sides, we find that this case bears substantial similarity to O.A. No. 208 of 2023 (Suryabhan s/o Eknath Pawar vs. The State of Maharashtra & Ors.) that was decided by this Tribunal on 19.12.2024.

6. In the present case, the applicant has challenged the departmental enquiry initiated against him by charge sheet dated

21.08.2015, seeking directions to quash the proceedings and grant him completion of probation period along with consequential benefits. The primary ground for this challenge is the inordinate delay in concluding the departmental proceedings, which have been pending for approximately 6 years and 6 months.

7. The learned counsel for the applicant has placed reliance on the judgment of the Hon'ble Apex Court in Prem Nath Bali vs. Registrar, High Court of Delhi and Another, reported in AIR 2016 SCC 101, wherein it was held that departmental enquiries should ideally be concluded within 6 months, and in any case, not more than one year. The applicant has also cited the Government Circular dated 21.02.2015 directing completion of departmental enquiries within 6 months.

8. On the other hand, the respondents have highlighted the gravity of the charges against the applicant, involving serious security lapses that led to the escape of five dangerous prisoners from Nagpur Central Prison. They have also explained various factors that contributed to the delay, including administrative reasons, transfer of inquiry officers, demands for additional documents from the delinquents, and most significantly, the unprecedented challenges posed by the COVID-19 pandemic. The respondents have emphasized that the departmental enquiry is currently in its final stages, with witnesses having been examined.

9. Upon careful examination of the facts and circumstances of this case, we find that while there has indeed been considerable delay in concluding the departmental proceedings, the charges against the applicant are of a serious nature involving prison security and discipline. As held by the Hon'ble Supreme Court in *State of Madhya Pradesh & Anr. vs. Akhilesh Jha & Anr.* (Civil Appeal No. 5153/2021), every delay in conducting disciplinary enquiry does not ipso facto lead to the enquiry being vitiated. In this case the Hon'ble Supreme Court has observed that the Tribunal would have been justified in directing the expeditious conclusion of the enquiry, but instead it proceeded to quash the enquiry in its entirety. This in our view was clearly impermissible.

10. The gravity of alleged misconduct is a relevant factor to be considered while deciding on quashing proceedings, as observed in *Secretary, Ministry of Defence & Ors. vs. Prabhash Chandra Mirdha* (AIR 2012 SC 2250). In this case, the Hon'ble Supreme Court ruled that the charge-sheet cannot generally be a subject matter of challenge as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. Otherwise, no charge sheet can be quashed at the initial stage as it would be a premature stage to deal with the issues. Proceedings are not liable to be quashed on the ground of delay and gravity of the

alleged misconduct is a relevant factor to be taken into consideration while quashing the charge-sheet.

11. Furthermore, the applicant has not demonstrated specific prejudice caused to him due to the delay in concluding the departmental proceedings, apart from the general issue of pending completion of probation and withholding of increments. His retirement is still many years away, and there is no evidence to suggest that his ability to defend himself has been compromised by the delay.

12. In these circumstances, following the approach adopted in O.A. No. 208 of 2023, we find it more appropriate to direct expeditious completion of the departmental enquiry rather than quashing it entirely. This balanced approach respects both the applicant's right to timely resolution and the respondents' responsibility to uphold discipline and accountability in the prison system.

13. Therefore, we partly allow this Original Application with specific direction to the respondents to conclude the pending departmental enquiry against the applicant within a time-bound period. The other prayers of the applicant are not granted.

ORDER

(i) The Original Application is hereby partly allowed.

(ii) The respondent no. 1 is directed to conclude the pending departmental enquiry against the applicant within a period of 03 months from the date of this order.

(iii) The applicant shall cooperate with the respondents in conducting and concluding the departmental enquiry within the stipulated period of 03 months.

(iv) It is clarified that the applicant would be at liberty to file a departmental appeal if any adverse order is passed against him at the conclusion of the departmental enquiry, and to pursue further legal remedies in case his departmental appeal is unsuccessful.

(v) All other prayers in the Original Application stand rejected.

(vi) There shall be no order as to costs.

(vii) The Original Application is accordingly disposed of in terms of the aforesaid order.

MEMBER (A)

VICE CHAIRMAN

Place : Aurangabad

Date : 20.03.2025

O.A.NO.280-2022-DE-HDD-2025