

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.245 OF 2017**

**DISTRICT : NASHIK**

Shri Rupesh Rameshchandra Rathod, )  
Age 36 years, occ. Nil, Surveyor of Deputy Director of )  
Land Record, Nashik Region, Nashik )  
R/o Basant Bahar, B. No.1, Ayodhya Nagar Upnagar, )  
Nashik-6 )..Applicant

Versus

1. The State of Maharashtra, )  
Through the Additional Chief Secretary, )  
Revenue & Forest Department, Mantralaya, )  
Mumbai 400032 )
2. The Settlement Commissioner and )  
Director of Land Records (MS), Pune )
3. The Special Officer of Office of Divisional )  
Commissioner of Revenue, Nashik Division, )  
Nashik )
4. The Deputy Director of Land Records, )  
Nashik Region, Nashik )..Respondents

Shri B.A. Bandiwadekar – Advocate for the Applicant

Smt. Archana B.K. – Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson  
Shri Debashish Chakrabarty, Member (A)  
RESERVED ON : 11<sup>th</sup> November, 2024  
PRONOUNCED ON: 4<sup>th</sup> April, 2025  
PER : Smt. Justice Mridula Bhatkar, Chairperson

### **J U D G M E N T**

1. The Applicant challenges the order dated 31.5.2008 issued by the Deputy Director of Land Records, Nashik and thereafter the order dated 27.8.2009 passed by the appellate authority thereby dismissing the Applicant from service. The Applicant was working as Surveyor in the office of Regional Deputy Director of Land Records, Nashik.

2. Two charge sheets for DE were issued against the Applicant. The first charge sheet was issued on 7.3.2005 in which DE was initiated under two heads. Firstly, he has remained absent without approval for the period of one year three months and ten days i.e. from 23.5.2002 to 2.9.2003. Secondly he did not carry out survey physically between 1.3.2000 to 22.5.2002 and there was delay in submission of the matters to the office.

3. Second DE was for 4 charges. He remained absent on 4 occasions intermittently from 1.3.2006 and thereafter he continued to remain absent from 1.8.2006 till charge sheet was served i.e. 13.3.2007. Secondly he did not appear for medical examination before medical board on 15.11.2006. Thirdly, he did not submit the graphs in 8 matters and failed to follow the requisite procedure under Section 17(1) of the Maharashtra Land Revenue Code, 1966. Fourthly, he did not submit his diary of certain period from April 2005 to February 2006 when he was holding post as Surveyor.

4. Ld. Advocate for the Applicant argued that the Dy. Director, Land Records, Nashik though has passed the order of dismissal on 31.5.2008, the effect is given from 1.8.2006 i.e. from the date since he remained absent. Ld. Advocate for the Applicant submits that there is no provision to pass such order giving retrospective effect of the dismissal. Ld. Advocate for the Applicant states that the Mother-in-law of the Applicant expired on 24.6.2002. The details of the leave furnished by the Applicant are reproduced below:

Sr No	Nature of illness	Medical certificate	Period of medical avail	Leave application	Whether leave sanctioned or not	Duration of period / Days
1	Mother in law's illness & death religious rights	-	27.5.2002 to 26.7.2002	Earned leave application given	Sanctioned	60
2	Sciatica & acid peptic disorder	Details of medical certificate given below	27.7.2002 to 2.9.2003	Medical leave application given	Sanctioned	310
DETAILS OF MEDICAL LEAVE CERTIFICATE						
1	Sciatica & Acid Peptic Disorder	Dr. Satpute	2.8.2002	Medical leave application given	Medical Leave sanctioned	
2	Lumbagi/sciatica & Acid peptic disorder	Dr. Satpute	18.8.2002 to 18.2.2003	Medical leave application given	Medical Leave sanctioned	
3	Acid peptic disorder	Dr. Purnapatre	17.4.2003 to 21.5.2003	Medical leave application given	Medical Leave sanctioned	
4	Acid peptic disorder	Civil Hospital treatment	23.10.2002 to 2.6.2003	Medical leave application given	Medical Leave sanctioned	

5. Ld. Advocate for the Applicant further submits that the Applicant is not dismissed under the charge of dishonesty or corruption but only on the ground of his long absenteeism which is justifiable. The Applicant has tendered evidence to that effect by producing various medical certificates of himself and his Mother-in-Law. After joining duty in 2002 his Mother-in-Law fell very sick and subsequently died in June, 2002. Thereafter the Applicant also had developed problem of 'Sciatica' and 'Acid Peptic Disorder'. He further submits that Applicant has produced Medical Certificates subsequently and the Medical Leave was sanctioned to Applicant. Ld. Advocate for the Applicant argued that the Enquiry Officer should have considered this evidence and should not have held him guilty for this 'Absenteeism'. Ld. Advocate for the Applicant submitted that the reason for leave taken by the Applicant was beyond his control and therefore this should not have been considered as misconduct in real sense.

6. Ld. Advocate for the Applicant further argued that the Applicant has submitted all the reports and graphs of survey conducted by him. The allegations made under the charges that he did not conduct survey physically are false and baseless. The Enquiry Officer has failed to appreciate the evidence properly and the Applicant is illegally dismissed from service.

7. Ld. Advocate for the Applicant has submitted that Applicant had good reason for taking leave. His Mother-in-Law was sick and subsequently she passed away in June 2002. The Applicant himself has many ailments and has allergy of the 'Sunlight'. The charge of submitting survey report without taking actual survey on the site is false and the Applicant has carried out his duty diligently and had submitted all the survey reports. He has worked five years in Tribal/Inaccessible Areas and

so he was required to be transferred. Thus all the charges are not maintainable and the Enquiry Officer has erred in appreciating the circumstances and the genuine reasons of the Applicant of his absence. The order passed by the Enquiry Officer so also of the Dy. Director, Land Records, Nashik dated 31.5.2008 and appellate order dated 27.8.2009 are bad in law and be quashed and set aside and the Applicant be reinstated in service.

8. Ld. PO per contra defended the order of dismissal of Applicant from Government service passed by the Disciplinary Authority and the Appellate Authority by relying on the Affidavit in Reply dated 30.8.2017 filed by Shri Milind Narayan Chavan, Dy. Director of Land Records, Nashik on behalf of Respondents No.1 to 4. She submitted that there is an oversight in writing the date of charge sheet. It was a mistake of the Outward Clerk but the order was issued on 9.5.2005. During the Enquiry the Applicant was given opportunity to defend his case and thereafter the Enquiry Officer submitted his report on 12.2.2008. She submitted that Applicant was directed to remain present before the Medical Board, Dhule on 30.7.2003 and he was declared 'fit' on 13.8.20023 so he was required to join duty on 14.8.2003. However, he joined the duty on 3.9.2003 without any prior permission. The Applicant was careless and not interested in performing Government Duty. The explanation given by the Applicant for his long absence from duty cannot be accepted. Ld. PO further submitted that the Applicant did not submit the report of measurement work in twenty four cases and had led genuine inconvenience to the public in those matters. Ld. PO pointed out the steps followed during Enquiry and appeal was decided after giving disciplinary memo and opportunity of audience to him. Thus, it is submitted that the order of dismissal is legal and valid and be maintained.

9. We have perused the charge sheet, report of the Enquiry Officer so also the order passed by both Disciplinary Authority and the Appellate Authority and other documents relied by the Ld. Advocate for the Applicant. The Applicant faced four charges about availing of leave of one year three months and 10 days without sanction and secondly delayed submission of report without actual physical measurement of the land. The Applicant has admitted that total 24 cases of Surgana, Nashik were given to him for measurement however he has given explanation that the original records were not available and the papers of land at Surgana are available in Nasik and therefore he took time to submit the report. On perusal of the Enquiry Report, we find that the Enquiry Officer has discussed about both the charges and circumstances and evidence before him. The Enquiry Officer has also considered defence taken by the Applicant. It is also mentioned that though total 24 cases were assigned to Applicant, but papers of only 12 cases were received back from Applicant. The categories of cases were most urgent, urgent and regular which had been given to Applicant. The period given is two months, four months and six months respectively for actual submission of report to Survey Officer. However, in the matters which were submitted late by the Applicant, the delay was of one to two years and this has also caused inconvenience to the public. Similarly, after comparing the dates on which the actual measurement and survey was claimed did not tally and on some of the days the Applicant was on leave. Thus, he had lied before the authority and has prepared false documents.

10. We have considered the reasons given by the Applicant as mentioned in the chart referred above. The Applicant's Mother-in-Law was sick and died for which Applicant took 60 days leave which was sanctioned. Then he was also suffering from 'Sciatica' and Acid Peptic Disorder from 27.7.2002 to 12.9.2003. Therefore, for 310 days he was absent. Then in 2002 and 2003 the Applicant sought Medical Leave for

the same reasons. He did not appear before the Medical Board. He did not attend the duty even after he was declared fit by the Medical Board.

11. We are aware that the Applicant has lost his Mother-in-Law who was sick and Applicant was suffering from 'Sciatica' and Acid Peptic Disorder. However, we are unable to accept the justification sought to be given by the Applicant. The reasons like illness of the Family Members or parting of Family Members should be manageable by any Government Servant. Further it was submitted that no witnesses were examined and so Departmental Enquiry had not been properly conducted. It is not binding on the Enquiry Officer to examine the witness to prove the charges. The charges can be established by Enquiry Officer on the basis of documents and the facts circumstances of the case. The Applicant was given opportunity of audience by the Enquiry Officer and his defence was also taken into account as evident from Enquiry Report.

12. The Disciplinary Authority and Appellate Authority have thus passed reasoned orders, which cannot be faulted with. Under such circumstances, we do not find any reason to interfere with the impugned orders and the OA deserves to be dismissed.

13. The Original Application is dismissed. No order as to costs.

**Sd/-**  
**(Debashish Chakrabarty)**  
**Member (A)**  
**4.4.2025**

**Sd/-**  
**(Mridula Bhatkar, J.)**  
**Chairperson**  
**4.4.2025**

Dictation taken by: S.G. Jawalkar.