

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No.1013 of 2024 (S.B.)**

Umakant Mohpat Sathawane,  
Aged about 58 years, Occu.: Retired,  
R/o. at Post Karadi, Tah. Mohadi,  
District Bhandara.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through its Principal Secretary,  
Tribal Development Department,  
Mantralaya, Mumbai-400 032.
- 2) The Commissioner,  
Tribal Development Department,  
Old Agra Road, Gadkari Chowk, Nashik -2.
- 3) The Additional Commissioner,  
Tribal Development Department,  
Opp. R.T.O., Giripeth, Nagpur.
- 4) The Project Officer,  
Integrated Tribal Development Project,  
Deori, District Gondia.

**Respondents.**

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**Shri R.M. Fating, Advocate for the applicant.**

**Shri V.A. Kulkarni, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Acting Chairman.**

**Dated :- 22/04/2025.**

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**JUDGMENT**

Heard Shri R.M. Fating, learned counsel for applicant and  
Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant was initially appointed on the post of Secondary Teacher on 01/10/1991. Subsequently, he was transferred in Nagpur Division on 19/07/1999 and he has been posted at Government Post Basic Ashram School Gyarapatti in Gadchiroli District. The applicant was suspended for the reason of misconduct with a girl student of the Ashram School as per order dated 03/08/2006. Respondent no.3 served charge sheet to the applicant on 08/09/2006. Only one charge was levelled against the applicant for misconduct with girl student of the Ashram School.

3. In departmental inquiry, the victim girl has made statement that she was forced by the Head Master Shri Khobragade to make complaint against the applicant with an intention to implicate him. The Inquiry Officer submitted report of inquiry on 28/05/2009 wherein the Inquiry Officer has held that charge of misconduct with a girl student of Ashram School is not proved. Even though, the applicant is punished by respondent no.3 by withholding one increment and treating the suspension period as leave period. The applicant preferred appeal before respondent no.2, i.e., the Commissioner, Tribal Development Department. The Commissioner, Tribal Development Department has held that the suspension was unjustified, even though the appeal was partly allowed and maintained the order of stopping of one increment

and suspension period treated as a qualifying service for the purpose of pensionary benefits only.

3A. The applicant is entitled to get salary of the suspension period, because, the suspension was illegal and therefore the applicant has approached to this Tribunal by filing this O.A. for the following reliefs –

*“(11) (i) Quash and set aside the impugned order dated 27.08.2024 passed by the Respondent no.2- Commissioner, Tribal Development, Maharashtra State, Nashik, being illegal and bad in law;*

*ii) Quash and set aside the impugned order dated 30.03.2011 passed by the Respondent no.3, Additional Commissioner, Tribal Development, Nagpur;*

*iii) Hold and declare that the Applicant is entitled for full salary and allowances for the suspension period from 03.08.2006 to 17.04.2011 by treating the same as 'duty period' in view of provision in Rules 72(3) of Maharashtra Civil Services(Joining period, removal suspension...) Rules 1981 and law laid down by the Hon'ble Apex Court;*

*iv) Direct the Respondents to treat the suspension period w.e.f. 03.08.2006 to 17.04.2011 as 'duty period' for full salary and allowances;*

*v) Direct the Respondents to revise the pension by considering full salary and allowances and also annual increments during the period of suspension and grant arrears along with other consequential benefits with admissible interest thereon, in the interest of justice.”*

4. The O.A. is strongly opposed by the respondents by filing reply. It is submitted that though the charges are not proved, but

looking to the preliminary inquiry, the applicant is punished by withholding one increment and suspension period treated as leave period. In appeal, the suspension period is treated as a qualifying service for the purpose of pensionary benefits only. Therefore, the O.A. is liable to be dismissed.

5. During the course of submission, learned counsel for applicant has pointed out the inquiry report. The material portion of the inquiry report is reproduced below –

“दोषारोप क्रमांक १: अपचारी श्री. यु. एम. साठवणे, माध्यमिक शिक्षक यांचे विरुद्ध लावण्यात आलेले दोषारोप बाब १ नुसार सरकारी साक्षीदार व वर्गातील विद्यार्थी यांचे बायाणावरून अपचारी श्री. साठवणे यांच्यावर लावण्यात आलेले आरोप कोणत्याही साक्षदारांनी पाहिले नसल्याचे दिसून येते. कु. अस्माय पुडो हिने सुध्दा अपचारी श्री. साठवणे यांनी चिट्ठी पाठविल्याचे नाकारले आहे. कु. अस्माय पुडो हिचे गर्भधारणेबाबत जी वृत्तपत्रीय बातमी होती ती निरर्थक असून तिच्या गावातील मुलाशी असलेल्या शारीरिक संबंधाने झालेली आहे. व तिचे त्या गावातीलच मुलाशी लग्न झालेले आहे. एकंदरीत अपचारी श्री. यु. एम. साठवणे, माध्यमिक शिक्षक, शासकिय आश्रम शाळा, ग्यारापत्ती यांचेवर लावण्यात आलेले आरोप बाब क्र. १ सिध्द होण्यास वाव नाही.”

6. In view of the statement of complainant and other witnesses, the Inquiry Officer has held that the charge against applicant in respect of misconduct with a girl student is not proved. Even though, respondent no.3 has punished the applicant by withholding one increment and treating the suspension period as

leave period. In appeal, the said order was maintained by respondent no.2 to the extent of stoppage of one increment and appeal was partly allowed.

7. The learned counsel for applicant has pointed out the order of appellate authority dated 27/08/2024. The material portion of the order is reproduced below –

“१०.४ श्री. साठवणे, यांना दिनांक ०३.०८.२००६ ते १७.०४.२०११ या कालावधीत निलंबित ठेवण्यात आलेले होते, या कालावधीत अपर आयुक्त, नागपूर यांनी त्यांच्या निलंबनाचा आढावा घेणे व त्यांना विभागीय चौकशीच्या अधिन राहून पुर्नस्थापना करणे अभिप्रेत होते तथापि, याबाबत प्रतिवादी यांना कोणतीही कार्यवाही केलेली दिसून येत नाही एवढेच नव्हे ते जिल्हा चौकशी अधिकारी यांनी दिनांक २५.०८.२००९ रोजी चौकशी अहवाल सादर करून सुध्दा म्हणजेच त्यानंतर दोन वर्षांनंतर दिनांक ३०.०३.२०११ रोजी शिक्षा बजावलेली आहे. त्यामुळे निलंबन कालावधी हा समर्थनीय नाही असा निष्कर्ष आहे.

सबब, मी खालील प्रमाणे आदेश पारित करित आहे

### आदेश

१. अपिल अंशतः मान्य करण्यात येत आहे.
२. अपीलार्थीची एक वेतनवाढ पुढील वेतन वाढीवर परिणाम न करणारी ही शिक्षा कायम करण्यात येत आहे.
३. अपीलार्थीचा निलंबन कालावधी हा देय अनुज्ञेय रजा म्हणून संबोधण्यात यावा या शिक्षा ऐवजी निलंबन कालावधी हा सेवानिवृत्तीविषयक लाभांकरीता अर्हताकारी सेवा म्हणून ग्राह्य धरण्यात यावा.”

8. It is clear from the observation of the appellate authority that suspension of the applicant was not justified. Even though, the appellate authority maintained the order of disciplinary authority.

9. It is clear from the order of punishment and report of Inquiry Officer that the misconduct against the applicant is not proved. It appears that he was falsely implicated at the instigation of Head Master. In such circumstances, he should have been exonerated, but the disciplinary authority intentionally punished the applicant. The appellate authority observed that suspension period was not justified. It appears that the disciplinary authority and appellate authority have not gone through the evidence on record. The evidence of complainant itself shows that she was instigated by Head Master and falsely implicated the applicant. She had sexual relations with one boy in the village and she was pregnant. But the applicant was falsely implicated. The news was also published in the newspaper. It was more harassment to the applicant. This fact should have been considered by disciplinary authority and appellate authority. The applicant should have been exonerated from all the charges, but respondent nos.2 and 3 not considered the evidence on record.

10. The learned counsel for applicant has pointed out the Judgment of Hon'ble Bombay High Court, Bench at Panaji-Goa in the case of ***S.P. Naik Vs. Board of Trustees, Mormugao Port Trust,***

**Goa & Ano.**, decided on 22/02/1999. In para-9 of the Judgment, the Hon'ble High Court has held that "the Government of India has ruled that when an inquiry has been held for imposition of a major penalty and finally minor penalty is awarded, the suspension should be considered unjustified and in terms of F.R. 54-B, the employee should be paid full pay and allowances for the period of suspension by passing a suitable order under F.R. 54-B. The same principle has to be applied in the case under consideration. Thus in our opinion, the petitioner is entitled to full pay and allowances for the period of suspension and the order of disciplinary authority, treating the said period as not on duty is required to be set aside."

11. The learned counsel for applicant has pointed out rule 72 of the Maharashtra Civil Services (Joining time, Foreign Service and Payments During Suspension, Dismissal and Removal) Rules, 1981 (in short "Rules of 1981"). As per rule 72 (3) of the Rules of 1981 "where the competent authority to order of reinstatement is of the opinion that the suspension was wholly unjustified, the Government servant shall, subject to the provisions of sub-rule (8), be entitled for full pay and allowances of the suspension period."

12. In appeal, the appellate authority has specifically held that suspension was unjustified by observing in para-10.4 of the order dated 27/08/2024. Therefore, it is clear that suspension was

unjustified. The applicant was placed under suspension for further two years, even after submission of inquiry report by the Inquiry Officer. This observation of the appellate authority is very clear. In fact, the appellate authority should have exonerated the applicant and should have considered the suspension period as duty period, as it was unjustified.

13. In view of the material part of the punishment order and material observation of the appellate authority, it is clear that the applicant was falsely implicated. He was placed under suspension from 03/08/2006 to 17/04/2011 by the respondents. As per the order of punishment dated 30/03/2011, suspension period was treated as leave period and as per order of appellate authority dated 27/8/2024, the said period was treated as qualifying service for the purpose of pensionary benefits. The respondents have not treated the suspension period as duty period as per the rule 72 (3) of the Rules of 1981 as the suspension was unjustified. The Appellate Authority has recorded its findings in para 10.4 of the order dated 27/08/2024 holding that the suspension was unjustified. Hence, the impugned orders passed by respondent nos.2 and 3 are illegal and liable to be quashed and set aside. Therefore, the following order is passed –

### **ORDER**

- (i) The O.A. is allowed.



- (ii) The impugned order passed by respondent no.2 dated 27/8/2024 and impugned order passed by respondent no.3 dated 30/3/2011 are hereby quashed and set aside.
- (iii) The suspension period from 3/8/2006 to 17/4/2011 was unjustified. Therefore, the respondents are directed to pay full salary and other benefits of the suspension period from 3/8/2006 to 17/4/2011 to the applicant within a period of three months from the date of receipt of this order.
- (iv) No order as to costs.

**Dated** :- 22/04/2025.

dnk.

**(Justice M.G. Giratkar)**  
**Acting Chairman.**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Acting Chairman.

Judgment signed on : 22/04/2025.