

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No.149 of 2020 (D.B.)**

Shri Baliram Suryabhan Ramteke,
 Aged about: 67 yrs, Occ.: Retired,
 R/o Ramwatika near saturna bus Stop, Badnera road,
 Amravati - 444606.

Applicant.**Versus**

1. The State of Maharashtra,
 Through its Secretary,
 Public Health Department, Mantralaya, Mumbai.
2. Director of Health Services,
 Maharashtra State, Mumbai.
3. Deputy Director of Health Services,
 Amravati.

Respondents.

Ms. A.D. Kolhe, Advocate for the applicant.
Shri A.P. Potnis, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar, Vice Chairman and
 Hon'ble Shri Nitin Gadre, Member (A).**

Dated :- 25/09/2024.

J U D G M E N T

Heard Ms. A.D. Kolhe, learned counsel for the applicant
 and Shri A.P. Potnis, learned P.O. for the respondents.

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

The applicant was appointed as an Administrative Officer
 as per order dated 05/08/1996. He was selected by the M.P.S.C. in
 the Health Department. The applicant joined as Administrative Officer

on 04/09/1996 in the office of the District Health Officer, Zilla Parishad, Amravati. Thereafter, respondent no.3, the Deputy Director vide its order dated 06/07/2002 transferred the applicant to the District Woman Hospital, Amravati. On 30/07/2002 the applicant joined as Administrative Officer at District Woman Hospital, Amravati.

3. The respondents have issued show cause notice on 28/06/2004. The charge sheet was issued to the applicant in respect of purchase of medicines, other articles for the Hospital. The departmental inquiry was conducted against the applicant. The Inquiry Officer has exonerated the applicant, but has held responsible for negligence.

4. The disciplinary authority not agreed with the report of the Inquiry Officer and issued final show cause notice to the applicant. After the explanation of the applicant, the respondents have passed the impugned punishment order dated 18/01/2019 by which 2/3 pension of the applicant is deducted permanently. Being aggrieved by this order, the applicant has filed the present O.A.

5. The O.A. is strongly opposed by the respondents. It is submitted that the applicant was the Administrative Officer at District Woman Hospital, Amravati. He was responsible to verify the details of the bills submitted to the Treasury Office. The articles were purchased at the excessive rate. The applicant was negligent in his duty,

therefore, he is rightly punished for misconduct. Hence, the O.A. is liable to be dismissed.

6. During the course of submission the learned counsel for applicant has pointed out the report of Inquiry Officer. She has pointed out the material findings of Inquiry Officer. The learned counsel for applicant has submitted that the Inquiry Officer came to the conclusion that charges are not proved against the applicant. The responsible officers were the Civil Surgeon and the Deputy Director of Health Services. They were the authority to sanction the rates. Therefore, the applicant cannot be held responsible.

7. The learned counsel for applicant has pointed out the guidelines in respect of purchase of medicines and other articles in the department. As per guidelines, the Deputy Director of Health and the Civil Surgeon are responsible. The applicant was working as Administrative Officer, he was not responsible for the excess payment or excessive payment for the purchase of articles in the Woman Hospital. The learned counsel for applicant has submitted that the applicant is wrongly punished by the respondents. Hence, the O.A. be allowed and impugned punishment order be set aside.

8. The learned P.O. has submitted that the applicant was the responsible officer in the District Woman Hospital, Amravati. The purchase of medicines and other articles were made at the excessive

rate. It was his duty to verify the rates of the articles. The applicant was negligent while discharging his duty. The Inquiry Officer has recorded its findings that applicant was negligent in his duty. Though other charges are not held to be proved, but the disciplinary authority has come to the conclusion that the misconduct is proved. It is for the disciplinary authority to record its own findings with reasons and therefore the punishment imposed by the disciplinary authority is legal and proper.

9. The material part of the inquiry report clearly shows that the applicant was not responsible for excess payments made to the concerned. The Inquiry Officer has recorded its findings that charge no. (1) was partly proved, charge no. (2) partly proved, charge no. (3) not proved, charge no.(4) not proved.

10. The findings of the Inquiry Officer show that the applicant was not responsible for the allegations made in the departmental inquiry, but he was negligent while discharging his duty.

11. Nothing is on record to show what type of action is taken against the senior officers, i.e., against the Civil Surgeon and the Deputy Director of Health Services who were the responsible officer for the management of PLA Account. The guidelines in respect of purchase of articles are given. As per the guidelines, if the articles are not purchased as per the rate of D.M.E.R. and if there was any

difference as compared to the market rate, then the concerned officer, Deputy Director of Health Services of that circle and the Civil Surgeon were required to cancel the purchase order. If they were negligent, then they were themselves responsible.

12. In the guidelines, it is nowhere mentioned that Administrative Officer is responsible. As per these guidelines, the Deputy Director of Health Services and the Civil Surgeon are responsible. Nothing is on record to show that any action is taken against the Deputy Director of Health or the Civil Surgeon of District Woman Hospital, Amravati. The reasons recorded in the inquiry report show that those bills were signed by the Civil Surgeon and approved by the Deputy Director of Health Services. The material part of the observation of the Inquiry Officer is reproduced below –

“त्यामुळे अपचारी अधिकारी श्री. रामटेके हे प्रशासकीय अधिकारी या नात्याने खरेदी प्रक्रियेशी संबंधित असले तरी दराची निश्चिती ही जिल्हा शल्य चिकित्सक सा. रु. अमरावती यांचे कार्यक्षेत्रातील बाब आहे. त्यामुळे खरेदी प्रक्रियेचा अवलंबन न करण्याबाबत व अतिप्रदाना बाबत अपचारी अधिकारी श्री. बि. एस. रामटेके, यांना दोषी धरणे योग्य ठरत नाही. मात्र स्त्रि रुग्णालयाचे प्रशासकीय अधिकारी या नात्याने पुरवठादारास रक्कमेचे प्र-दान करण्यापूर्वी पुरवठादारांनी दिलेले दर वाजवी आहेत किंवा नाही हे पाहणे योग्य ठरले असते. प्रपत्र "ब" चे अवलोकन केले असता त्यातील काही वस्तूचे दर [पुरवठादारांनी आकारलेले] योग्य आहे असे वाटत नाही. ही बाब अधिका जी. स्त्री. रु. तथा त्याचे मार्फत जि. श. चि. सा. रु. अमरावती यांचे निदर्शनास ही बाब

आणण्याची कार्यवाही श्री. रामटेके यांना करता आली असते मात्र त्यांनी या बाबतीत पुरेसे लक्ष दिले आहे असे म्हणता येणार नाही.

त्यामुळे सदर विवेचन लक्षात घेता सदर दोषारोप अपचारी अधिकारी श्री. बि. एस. रामटेके यांचेवर अंशतः सिद्ध होतो.”

13. From the above discussion, it is clear that the applicant was working as Administrative Officer. It was not his duty to fix or verify the rates of items to be purchased. As per the guidelines, it is the duty of the Civil Surgeon to fix the rates. The PLA account was to be managed by the Civil Surgeon, who heads the Institution. No action was taken by the respondents against the Civil Surgeon, Superintendent and the Deputy Director of Health. The Inquiry Officer has clearly recorded its findings that charges in respect of misappropriation etc. are not proved against the applicant. Even though, the applicant is punished. The punishment order does not show any specific reason for not accepting the inquiry report. In the inquiry report, the Inquiry Officer has recorded its findings that the applicant might be negligent, but he was not responsible for the illegalities / misappropriation etc.

14. If the disciplinary authority did not agree with the findings of Inquiry Officer, then he should have recorded specific reasons for not accepting the report of Inquiry Officer. The impugned order dated

18/01/2019 nowhere shows any specific reason for not accepting the report of Inquiry Officer. Hence, we proceed to pass the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The impugned order dated 18/01/2019 is hereby quashed and set aside.
- (iii) The respondents are directed to pay all consequential benefits to the applicant within a period of four months from the date of receipt of this order.
- (iv) No order as to costs.

**(Nitin Gadre)
Member(A).**

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

Dated :- 25/09/2024.
dnk.

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 Vice Chairman and
Member (A).

Judgment signed on : 25/09/2024.