

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No.281 of 2015 (D.B.)**

Shri. Ashis/S/o Vasant Puram,  
 Aged about: 32 years, Occu: Nil, R/o 207,  
 Suyog Nagar, Behind N.I.T. Garden, Nagpur – 440015.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
 Water Resources Department,  
 Mantralaya Mumbai 32, through its Secretary.
- 2) The Executive Engineer,  
 Chandrapur Medium Project Division No. 1,  
 Chandrapur – 442401.
- 3) The Suptd. Engineer,  
 Chandrapur Pathbandhare Chandrapur. Prkalp Mandal,  
 Chandrapur.
- 4) Chief Engineer,  
 Water Resources Department, Civil Lines, Nagpur.
- 5) Sub- Divisional Officer,  
 Echampalli Budit Area, Sub-Division Office No.4,  
 Babupeth, Chandrapur - 442403.
- 6) The Chief Engineer,  
 Designing, Training, Research & Safely,  
 Maharashtra Engineering Training Institute, Nashik.

**Respondents.**

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**Shri G.G. Bade, P.P. Khaparde, Advs. for the applicant.**  
**Shri S.A. Sainis, learned P.O. for respondent no.1.**  
**S/Shri H.D. Marathe, V.G.,A.V. and Mrs. N.A. Palshikar, K.D.**  
**Deshpande, Advs. for respondent nos.2 to 5.**

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

**Dated :-** 19/09/2024.

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

Heard Shri G.G. Bade, learned counsel for applicant, Shri S.A. Sainis, learned P.O. for respondent no.1 and Shri Thakre, learned counsel holding for Shri H.D. Marathe, learned counsel for respondent nos.2 to 5.

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

The applicant has passed B. Tech. in the year 2007 and appeared for the Maharashtra Engineering Services conducted by the MPSC in the year 2007. The applicant came to be appointed by virtue of order dated 27/08/2010. The ACR of the applicant in the year 2011-2012 was average and the subsequent year was also average. The applicant appeared for the departmental examination in the year 2012 and failed to appear in 2013. However for the examination of 2014, the applicant submitted his examination form vide letter dated 18/10/2014, but the same was not forwarded to the Superior Officer. Hence, he could not appear for the departmental examination. Therefore, the respondents have terminated the services of the applicant as per the order dated 26/05/2015. It is the contention of the applicant that the termination is not legal and proper. Hence, the applicant has filed the present O.A. for the following relief –

*“(i) declare that the action of the respondents in terminating the service of the applicant being illegal, malafied and contrary to the provisions of Article 14, 15 and 16 of the constitution of India.*

*(ii) quash and set aside the order dated 26/05/2015 passed by respondent No. 1.*

*(iii) require the respondents to allow the applicant to join his duties as earlier in the interest of justice and allow the applicant to appear for examination.”*

3. The respondents have filed reply. In para-4 and 5 of the reply, the respondents have submitted that the applicant was given several chances to appear in the departmental examination. In the appointment order itself, there is a condition that the applicant shall pass the departmental examination within a stipulated period and time, but applicant was careless. His work was not also satisfactory. The ACRs of the applicant were average. Those ACRs were not challenged by the applicant. The applicant was given repeated warning by the respondents, but the applicant had not improved his work. It is submitted that the applicant was given one more chance to appear in the departmental examination. The correspondence with the applicant and departmental communication reveals that the applicant was lethargic in submitting the form. The respondent no.3 issued Circular on 20/08/2013 stating that the examination form should be submitted on or before 10/09/2013. The applicant has submitted his form on 27/09/2013. Therefore, the applicant was informed by the Deputy Engineer to submit the form personally at Nashik, but he failed to submit the form at Nashik. Hence, the form was forwarded to the

office of respondent no.2 on 27/09/2013. The applicant took possession of the form and kept the same with him only. He returned the form to the sub division on 30/09/2013. The office of respondent no.5 forwarded it to the office of respondent no.2 on 01/10/2013. In short, the applicant was careless. He was not discharging his duty properly. Several warnings were given to the applicant. The applicant has not passed the departmental examination as per the condition laid down in the appointment order. Hence, the termination of the applicant is perfectly legal and correct. There is no any stigma. Hence, the O.A. is liable to be dismissed.

4. This O.A. was decided by this Tribunal on 10/03/2017. This O.A. was dismissed as per the Judgment dated 10/03/2017. The said order was challenged before the Hon'ble Bombay High Court Bench at Nagpur by filing Writ Petition No.7185/2017. As per order dated 31/01/2018 the Hon'ble High Court has partly allowed the Writ Petition with direction to this Tribunal to decide the O.A. as early as possible.

5. During the course of submission, the learned counsel for applicant has submitted that without any departmental inquiry the applicant was terminated before completion of his probation period. In support of his submission pointed out the decision of the Hon'ble

Supreme Court in the case of **V.P. Ahuja Vs. State of Punjab & Ors.**, decided on 06/03/2000.

6. The learned P.O. and learned counsel for respondent nos.2 to 5 have submitted that the applicant has not fulfilled the conditions mentioned in the appointed order. The applicant had not passed the departmental examination as per the rules. Hence, termination of the applicant before completion of probation period is perfectly legal and correct. There was no any stigma in the termination order. Therefore, there was no need to conduct any departmental inquiry. Hence, the O.A. is liable to be dismissed.

7. The appointment order is dated 27/08/2010. The material condition in the appointment order is reproduced below –

*“१८. सोबतच्या परिशिष्ट-१ व २ मधील उमेदवारांनी विहित विभागीय परिक्षा परिविक्षाधीन कालावधीमध्ये उत्तीर्ण होणे आवश्यक आहे. तसेच परिविक्षाधीन कालावधीमध्ये विभागीय परिक्षा उत्तीर्ण न झाल्यास किंवा कामाचा अपेक्षित दर्जा प्राप्त न केल्यास किंवा त्यांचे काम योग्य अथवा अनुरूप न आढळल्यास त्यांच्या सेवा कोणतीही पूर्व सूचना न देता रद्द करण्यात येतील.”*

8. There is no dispute that the applicant has not passed the departmental examination within a stipulated time and period as per the recruitment rules. The applicant was also not discharging his duty properly. He was given several warnings by the respondents. The ACRs of the applicant were also not good, near about all the ACRs were average, the applicant has not challenged those ACRs.

9. There is no dispute that the applicant has not passed the departmental examination within a stipulated time as per the condition mentioned in the appointment order itself. As per the recruitment rules, the newly appointed candidate shall have to pass the departmental examination within a stipulated time and within a stipulated chances. The applicant has not passed the departmental examination. To show mercy to the applicant, the respondents have given one more chance to applicant to appear in the departmental examination, but the applicant has also failed to avail that opportunity. The applicant was informed to appear in the departmental examination which was to be held in 2013. Specific Circular was issued on 20/08/2013 directing the applicant to submit his form before 10/9/2013, but the applicant submitted his form on 27/09/2013. Therefore, he was directed to submit his form directly in the office at Nashik. The applicant did not follow any direction. He did not go to Nashik to submit his form. Applicant returned the form to the sub division on 30/09/2013. Therefore, the respondents cannot be held responsible for not allowing the applicant for the examination. The applicant was careless, negligent, not discharging his duty properly, he had not passed the departmental examination as per the recruitment rules and as per conditions mentioned in the appointment

order itself. Therefore, the respondents have terminated the services of the applicant.

10. Whether the termination amounts to stigma is a question. From the perusal of termination order dated 26/05/2015 it is clear that there is no stigma in the termination order. The reason given for termination is that the applicant has not passed the departmental examination as per the recruitment rules and therefore his service is terminated.

11. The learned counsel for applicant has pointed out the Judgment of the Hon'ble Supreme Court in the case of ***V.P. Ahuja Vs. State of Punjab & Ors.*** The fact in the cited Judgment is very much different. In the cited Judgment it was observed that when there is a stigma in the termination order, then departmental inquiry is necessary. In the present matter, the termination order dated 26/05/2015 does not show any stigma on the applicant by terminating him. Hence, the cited decision is not applicable to the case in hand. Therefore, we proceed to pass the following order –

**ORDER**

The O.A. is dismissed with no order as to costs.

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

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

**Dated** :- 19/09/2024.  
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 : 19/09/2024.