

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 988 OF 2021

DISTRICT : PUNE

Shri Chandrakant S. Gaikwad,)
Retd Government servant,)
R/o: Flat No. 43, Niko Garden,)
Tulip Building, Viman Nagar,)
Pune 411 014.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Agriculture, Animal Husbandry)
& Dairy Development Department,)
Mantralaya, Mumbai 400 032.)
2. The Commissioner of Agriculture,)
M.S., 3rd floor, Central Building,)
Pune 411 001.)
3. The Divisional Commissioner,)
Nagpur, Old Secretariat Bldg,)
Samaj Kalyan Office Road,)
Civil Lines, Nagpur 440 001.)
4. Regional Departmental Enquiry)
Officer, Nagpur Division,)
C/o: Office of Divisional Commissioner)
Nagpur, Room No. 86, 1st floor,)
Civil Lines, Nagpur 440 001.)

5. The Secretary,)
 Planning Department, EGS Branch,)
 Mantralaya, Mumbai 400 032.)
6. Divisional Joint Director of)
 Agriculture, Konkan Division,)
 Krishi Bhavan, Wagale Estate,)
 Dist-Thane [East].)...**Respondents**

Shri C.T Chandratre, learned advocate for the Applicant.

Ms Archana B.K, learned Presenting Officer for the Respondents.

CORAM : Justice Mridula Bhatkar (Chairperson)
Mrs Medha Gadgil (Member) (A)

DATE : 12.07.2024

J U D G M E N T

1. The Applicant prays to call for the record of the proceedings of the impugned charge sheet dated 10.8.2017 and after examining its legality and validity, to hold and declare that the said charge sheet is illegal and the same be quashed and set aside. Further the applicant prays that the Respondents No 1, 2 and 6 be directed to finalize the pension case of the Applicant within two months

2. Learned Counsel for the Applicant has submitted that the Applicant who retired on 31.5.2015 was posted as District Superintendent Agriculture Officer, Ratnagiri. Learned Counsel has submitted that the Applicant is challenging the Charge Sheet dated 10.8.2017 of the Departmental Enquiry. Learned Counsel for the Applicant has pointed out that the incident has taken place on 26.5.2010 and for which Charge Sheet was issued on

10.8.2017. Learned Counsel has submitted that the Applicant retired on 31.5.2015 on superannuation. Thus, according to the Applicant, the Charge Sheet was issued seven years after the incident had taken place. Learned Counsel has submitted that this case falls within Section 27(2)(b)(ii) of the Maharashtra Civil Services (Pension) Rules, 1982. Learned counsel has submitted that the enquiry did not commence till 17.7.2021 and the Charge Sheet was served upon the Applicant on 17.7.2021.

3. Learned P.O for the Respondents relied on the Additional Affidavit in Reply dated 31.3.2023 filed by Rajlaxmi S. Shah, working as Dy Commissioner (EGS), in the office of Divisional Commissioner, Nagpur, on behalf of Respondents No 3 & 5 and wanted to explain the delay in conducting the departmental enquiry. Learned P.O has submitted that the Department submitted the proposal on 30.12.2014 to the Principal Secretary, E.G.S, for taking disciplinary action in a common proceeding. Learned P.O has further submitted that there were complaints against the Applicant pertaining to irregularities and corruption in farm ponds. Thereafter on 2.11.2016, the Government of Maharashtra granted approval for taking disciplinary action against the Applicant. Meanwhile, the Applicant retired on 31.5.2015. However, Charge Sheet was issued to the Applicant on 10.8.2017 and Enquiry Officer was appointed by order dated 14.11.2017.

4. We reproduce the relevant provisions of Rule 27(b)(ii) of the Maharashtra Civil Services (Pension) Rules, 1982.

“27. Right of Government to withhold or withdraw pension.
(1) [Appointing Authority may] by order in writing, withhold or withdraw a pension or any part of it, whether permanently or for a specified period and also under the recovery from such pension, the whole or part of any

pecuniary loss caused to Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including service rendered upon re-employment after retirement:

(b) The Departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment.....

(ii) **shall not be in respect of any event which took place more than four years before such institution”.**

The Government has right to withdraw or withhold the pension under the said Rule. Though the enquiry is initiated it is subject to the provisions of Section 2(b)(ii) of the Maharashtra Civil Services (Pension) Rules, 1982. The enquiry was initiated after seven years of the date of the incident. The delay of sending the proposal in the year 2014 is also not explained by the Respondents.

5. In view of the above, we pass the following order:-

- (a) The Original Application is allowed.
- (b) The impugned charge sheet dated 10.8.2017 is hereby quashed and set aside.
- (c) The Respondents are directed to finalize the pension case of the Applicant, if at all there is no other enquiry pending against the Applicant within a period of three months.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 12.07.2024
Dictation taken by : A.K. Nair.