

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 920 OF 2015

DISTRICT : SINDHUDURG

Shri Shankar Sonaji Patil,)
Occ : Service, R/o: At Devgad,)
Dist-Sindhudurg.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Agriculture Department)
Mantralaya, Mumbai 400 032.)
[copy to be served on the)
C.P.O, M.A.T, Mumbai.)
2. The Divisional Commissioner,)
Konkan Division, New Mumbai)
Mumbai.)
3. The Agriculture Officer,)
Mangaon, Dist-Raigad.)
4. The Agriculture Officer,)
Devgadh, Dist-Sindhudurg.)

5. Joint Director,)
Agriculture, Thane,)
Konkan Division, Wagle Estate)
Thane-400 064.)...**Respondents**

Shri S.G Kulkarni, learned advocate for the Applicant.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 16.09.2016

ORDER

1. Heard Shri S.G Kulkarni, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant challenging the order dated 21.6.2013 whereby the Respondent no. 2 has refused to regularize the period of suspension of the Applicant from 10.4.2003 to 23.8.2010. The Applicant has been paid 90% of the wages for that period, while he is claiming full salary for that period.

3. Learned Counsel for the Applicant argued that the Applicant was placed under suspension by the Respondent no. 2 on 10.4.2003. A charge sheet was issued on 19.6.2003 to the Applicant and three colleagues, viz S/Shri N.T Kuthe, A.J Bhoir, R.Y Ajgekar. All the four were found guilty in the Departmental Enquiry and it was ordered to recover Rs. 1,34,803/- from the Applicant. In the impugned order dated 21.6.2013, the Applicant was granted only 90% of the emoluments for the suspension period from 10.4.2003 to 29.7.2009, though, for the pensionary purposes, this period was treated as period spent on duty. Learned Counsel for the Applicant argued that this order is discriminatory, as the other colleagues of the Applicant were not placed under suspension, though they were equally involved in the matter. Learned Counsel for the Applicant also prayed that the order of stopping his promotion permanently may be quashed.

4. Learned Presenting Officer argued that the Applicant has challenged order dated 21.6.2013, which is regarding the period of suspension. However, he is impliedly challenging order dated 29.7.2009 by which punishment of stopping his promotion permanently was passed by the Respondent no. 2. That order is not challenged specifically in the present Original Application. In any case, the Applicant cannot challenge that order now on grounds of limitation.

5. As regards order dated 21.6.2013, learned Presenting Officer argued that the Applicant was punished in a Departmental Enquiry for submitting false documents and claiming subsidy in the name of farmers. He was found guilty in the Departmental Enquiry and he was ordered to pay Rs. 1,34,803/-, the amount of loss caused to the Government, and his promotion was permanently stopped by order dated 29.7.2009. During the pendency of the D.E the Applicant was under suspension from 10.4.2009 to 23.8.2010. The impugned order dated 21.6.2013 has merely regularized this suspension period by granting 90% of the emoluments and by treating it as period spent on duty for pensionary purpose. Learned Presenting Officer argued that the suspension of the Applicant was fully justified as can be seen from the final punishment imposed on it. Just because his colleagues, who were involved in similar activities were not placed under suspension will not be a valid ground to hold that the Applicant's suspension period should be treated as duty period for all purposes. Learned Presenting Officer contended that from the Charge Sheet issued to the Applicant on 19.6.2003, a copy of which is placed on record, it can be seen that charges against him were more serious. He cannot claim that he should have been treated at par with S/Shri Kuthe, Bhoir and Ajgekar.

6. It is seen that the Applicant has challenged the order dated 21.6.2013, passed by the Respondent no. 2 regarding treatment of the period of suspension from 10.4.2003 to 23.8.2010. In that order, it is mentioned that in the Departmental Enquiry, the punishment of recovery of Rs. 1,34,803/-, the amount of loss caused by the Applicant to the Government, and stoppage of further promotion permanently was imposed on the Applicant by order dated 29.7.2009. From the Original Application, it is not clear whether the Applicant had filed appeal against the aforesaid order. In the present case, this order dated 29.7.2009 is not challenged. Even if this order was to be challenged, that will not be permissible as that would be beyond limitation. The relief sought by the Applicant in prayer clause 9(D) regarding considering him for further promotion cannot be granted to him.

7. The Applicant has stated in para 6(1) of the Original Application that S/Shri Kuthe, Bhoir and Ajgekar faced a common enquiry, but only he was placed under suspension. From the copy of charge sheet dated 19.6.2003 (page 12 of the Paper Book), it is seen that charge no. 6 reads as follows:-

दोषारोप क्र. ६

मौजे पुरार गांवातील स्वतःच्या कार्यक्षेत्रांतील लाभार्थीचे प्रस्ताव स्वतः तयार करून, सर्वश्री, एम. टी. कुथे, कृषि सहाय्यक, मोर्बा व अ. जे. भोईर, कृषि सहाय्यक, साई, आर. वाय. आजगेकर, कृषि सहाय्यक, खरवली यांनी कामे कल्याचे भासविणे व त्या

लाभार्थीच्या अनुदान मंजरीसाठी खोटे प्रस्ताव तयार करण्यास वरील कृषि सहाय्यकांना भाग पाडणे.

From this, it is clear that the Applicant was found to have prepared proposals in the names of the aforementioned persons and this charge was proved. The gravity of this charge goes to show as to why the Applicant was treated more severely. In any case, the Applicant was found guilty in the D.E and considering the nature of punishment imposed on him, it cannot be said that the impugned order is arbitrary or suffers from any infirmity. There is no reason for this Tribunal to interfere in this matter.

8. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 16.09.2016
Dictation taken by : A.K. Nair.