

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.783 OF 2014

DISTRICT : PUNE

Mr. Dulekha Chhotekha Khan.)
Age : 62 years, Occ. : Retired from service)
on 30.09.2010 and residing at 104,)
Ankur Apartment, Omkar Nagar,)
Near Samaj Sevak Colony, Talegaon)
Dabhade, Pune 410 507.)...**Applicant**

Versus

1. The Secretary,)
Industries, Energy & Labour Dept.,)
Mantralaya, Mumbai.)
2. The Commissioner.)
Block E-C 20, Bandra Kurla)
Complex, Kamgar Bhavan,)
Bandra (E), Mumbai 400 051.)
3. The Deputy Commissioner of Labour.)
Aurangabad Division, Aurangabad.)
4. The Government Labour Officer,)
Samata Colony, Garad Building,)
Usmanabad.)
5. The State of Maharashtra.)

to


Through the Secretary,)
 General Admn. Department,)
 Mantralaya, Mumbai - 400 032.)

6. The Accountant General (A & E)-2,)
 Maharashtra Civil Line,)
 Nagpur - 440 001.)...Respondents

Shri K.R. Jagdale, Advocate for Applicant.

Shri A.J. Chougule, Presenting Officer for Respondents.

CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)

DATE : 01.07.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)

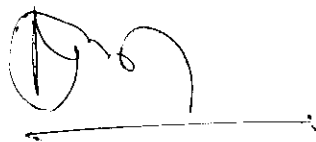
JUDGMENT

1. The exemption from passing the Marathi Language Examination granted by the Memorandum dated 18th June, 2012 passed by the Department of Industry, Energy and Labour which is at Exh. 'O' collectively (Page 32) came to be effectively withdrawn for no rhyme or reason whatsoever by a similar Government instrument issued by the same Department vide Exh. 'A' (Page 16) dated 3rd December, 2013 and that has brought the aggrieved retired employee before us by way of this Original



Application.

2. The facts culminating into fact at issue have in fact been succinctly summarized in the inaugural Paragraph itself. The Applicant retired as Shop Inspector, Grade II retired on 30th September, 2010. It seems that he must not have passed the Marathi Language Examination. We understand from the record as well as the submissions at the Bar by his Advocate Shri Jagdale that his pension papers and the post retiral benefits have been held up because of this very reason. By the order of 18th June, 2012 actually signed by the Under Secretary Shri Sudin Gaikwad, the Government granted exemption to the Applicant from passing Marathi Language Examination. Thereafter, for almost no rhyme or reason about a year and a half afterwards by the impugned order signed by one Shri Sanju K. Gupte, Section Officer, it was inter-alia mentioned that there was no reason to grant him such an exemption, and therefore, the request of the Applicant could not be considered and we are at a complete loss to understand as to what must have been the circumstances whereby an order made by the same Department of the Government could have so easily recalled it as it were.



3. Now, the impugned order brings in its wake adverse circumstances for the Applicant and once he was armed with the earlier order in his favour, the least that was expected of the Respondents was to pay at least a lip service if not anything more to the basic principles of natural justice by issuing a show cause notice which they did not do, much less did they go any further in that direction. Their action is quite clearly unsustainable, tested on whichever principle of law whoever might want to do it. Howsoever, strongly the learned P.O. Shri Chougule may have tried to support the case of the Respondents, we can end up only sympathizing with him without anything more for his clients.

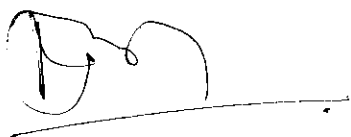
3. Another limb of the case apparently appears to be related to the pension aspect of the matter. A lengthy amendment has been made which we need not examine in detail. It would suffice to mention that by an order dated 28th August, 2014, we gave certain directions and it was thereafter that the provisional pension was given to the Applicant. Now, he is only getting provisional pension and the payment under all other heads of post retiral benefits are held up. We make it clear that if the disability accruing as a result of the impugned order is removed then as a necessary consequences and fall out all those benefits

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will become admissible to the Applicant but still, regard being had to the past experience, we think we should make it clear without insisting on technicalities of prayer, etc. this aspect of the matter. It is also made clear that the Applicant should not be called upon to make any payment by way of recovery by the Respondents ever on this count.

4. This is a matter relating to a pensioner who relinquished Office in the year 2010 and if the averments in the OA and our above observation are anything to go by, he has been unnecessarily harassed, and therefore, we shall be failing in our judicial duties were we not to impose cost which could as well be recovered from said Shri S.K. Gupte, the maker of the order dated 3rd December, 2013 at Exh. 'A' though we are imposing the cost on the Respondent No.1.

5. The letter dated 3rd December, 2013 Exh. 'A' (Page 16 of the paper book) issued by Shri Sanju K. Gupte, Section Officer, Industries, Energy and Labour Department stands hereby quashed and set aside and is inoperative and shall carry no disadvantage to the Applicant. The Respondents are directed to make sure that as a consequence, the pension papers of the Applicant and his all post retiral benefits should be paid to him. The

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compliance must begin forthwith and completed within a period of three months from today. The regular pension must be paid regularly to the Applicant henceforth. The Original Application is allowed in these terms with cost of Rs.10,000/- to be paid by Respondent No.1 and it should be deposited with this Tribunal within four weeks from today. The recovery, if any, made from the Applicant should be refunded to him within four weeks from today.

Sd/-

(R.B. Malik)
Member-J
01.07.2016

Sd/-

(Rajiv Agarwal)
Vice-Chairman
01.07.2016

Mumbai

Date : 01.07.2016

Dictation taken by :

S.K. Wamanse.

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