

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.1013 OF 2018

DISTRICT : SATARA

Shri Sambhaji Achyutrao Patil.)
Age : 58 Yrs., Occu.: Retired Dy. S.P.,)
Residing at Plot No.34, Koyana Sanmitra)
Co-operative Housing Society, Godoli,)
Satara - 415 004.)...**Applicant**

Versus

1. The Director General of Police.)
M.S, Mumbai, having office at 1,)
Shahid Bhagat Singh Marg, Colaba,)
Mumbai - 400 005.)
2. The Addl. Director General of Police.)
(Training & Special Units), M.S,)
Mumbai.)
3. The Principal.)
Police Training Centre, Turchi,)
Tal.: Tasgaon, District : Sangli.)...**Respondents**

Applicant in person.

Mrs. K.S. Gaikwad, Presenting Officer for Respondents.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 04.10.2019

W. K. Gaikwad

JUDGMENT

1. The Applicant has filed the present O.A. challenging the order dated 12.09.2018 passed by Respondent No.3 – Principal, Police Training Centre, Turchi, Tasgaon, District : Sangli thereby adjusting sum of Rs.1,12,560/- from his retiral benefits towards recovery for use of Government vehicle for private purposes.

2. The Applicant was posted as Vice-Principal, Police Training School, Turchi, Tasgaon, District : Sangli. He stands retired on 31.05.2018. After his retirement, the Respondent No.3 having noticed that the Applicant during his tenure at Turchi had used Government vehicle for private use, passed order for deducting Rs.1,12,560/- from his retiral dues. As per impugned order, he allegedly used Government vehicle of Police Training School and did total journey of 9380 Kms. for private use. Therefore, in terms of G.R. dated 30.05.2014, the charges at the rate of Rs.12/- per kms. was levied and amount of Rs.1,12,560/- was ordered to be deducted from retiral benefits. The Applicant has challenged the order or recovery dated 12.09.2018 by filing the present O.A.

3. The Applicant contends that the sum of Rs.1,12,560/- has been recovered from his gratuity without issuing any show cause notice and giving opportunity of hearing, and therefore, the recovery is unsustainable in law. He further contends that he had never used Government vehicle for private use as held in impugned order and further alleged that the Respondent No.3 has manipulated Log Book only to foist liability upon him. According to him, it was done only to cover-up misuse of vehicle by Respondent No.3.

4. During the course of hearing, the learned P.O. Smt. K.S. Gaikwad fairly conceded that before issuance of impugned order of deduction of Rs.1,12,560/-, show cause notice or opportunity of

hearing was not given to the Applicant. However, she tried to maintain that the Respondent No.3 had examined entries made in the Log Book and on the basis of it, having noticed private use of Government vehicle, the recovery was made. The learned P.O. has also produced extract of Log Book along with reply.

5. Thus, what transpires from the submission that there is disputed question of fact about use of Government vehicle for private purpose, which needs fact finding enquiry by the appropriate authority. Admittedly, before deduction of amount, neither show cause notice was given to the Applicant nor opportunity of hearing was given to him. As such, there is no observance of principles of natural justice. It is on this background, in alternative submission, the learned P.O. submits that, if necessary, the matter be remanded to Respondent No.3 for proper enquiry by giving necessary opportunity of hearing.

6. As stated above, the question involved pertains to disputed fact, and therefore, it would be appropriate to direct Respondent No.3 to make enquiry afresh by giving opportunity of hearing to the Applicant and then shall pass appropriate order within stipulated time, so that the Applicant should get full opportunity and the disputed facts are ascertained by fact finding enquiry.

7. At this juncture, the Applicant in person requested that instead of remitting the matter to Respondent No.3 – Principal, Police Training School, it is desirable to appoint independent Officer for enquiry, so that enquiry should be impartial and fair. The submission made by him is quite reasonable. It is, therefore, necessary that the Respondent No.2 – Additional Director General of Police (Training and Special Units) should appoint suitable Officer not below the rank of Superintendent of Police for enquiry.

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8. In view of above, the O.A. is disposed of with following directions:-

- (A) The Original Application is partly allowed.
- (B) The matter is remitted back to hold enquiry to find out whether the Applicant has used the Government vehicle for private use by giving opportunity of hearing to the Applicant.
- (C) The Respondent No.2 is directed to appoint suitable Officer not below the rank of Superintendent of Police for fact finding enquiry and shall submit report to Respondent No.3 within two months from today.
- (D) On receipt of report, the Respondent No.3 shall pass further appropriate order about the liability of the Applicant within two weeks and it shall be communicated to the Applicant forthwith.
- (E) If the Applicant felt aggrieved by the decision, he may avail legal remedy, as may be permissible in law.
- (F) No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Mumbai
Date : 04.10.2019
Dictation taken by :
S.K. Wamanse.