

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.1574 OF 2023

**DISTRICT : Ratnagiri
SUB : Punishment as Strict Warning**

Dr. Rajendra Ravso Patil, Age:- 39 years,)
Working as Range Forest Officer, Khed Social)
Forestry at Dapoli, Dist. Ratnagiri.)
R/o. A/P. Nachane, Near Ration Store, Tal. And)
Dist. Ratnagiri.) ... **Applicant**

Versus

Conservatory of Forest and Field Director,)
Sahyadri Tiger Reserve, Van Vanvardhan,)
Having office at Tarabai Park, Kolhapur.)...**Respondents**

Shri A. V. Bandiwadekar, learned Advocate for the Applicant.

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

CORAM : Hon'ble Shri M. A. Lovekar, Hon'ble Member (J)

Reserved on : 06.01.2025

Pronounced on : 09.01.2025

JUDGEMENT

Heard Shri A. V. Bandiwadekar, learned Advocate for the Applicant and Smt. Archana B. K., learned Presenting Officer for the Respondents.

2. The impugned order dated 06.12.2021 (Exh. A) sets out chronologically as follows :-

In a trap laid by the A.C.B., the Applicant was arrested and Crime No.31/2017 was registered under Sections 7, 13(1)(d) and 13(2) of the Prevention of Corruption Act against him. He was placed under suspension and served with a charge sheet dated 24.04.2018 of DE. The charge sheet in Special case under Prevention of Corruption Act was

submitted in Special Court at Karad on 20.6.2018. By order dated 21.09.2018, the Applicant was reinstated. By order dated 22.4.2019, the Enquiry Officer and Presenting Officer were appointed to conduct the D.E. The Enquiry Officer held all the charges laid against the Applicant to be not proved. The Disciplinary Authority while passing the impugned order held :

“ ७. शिस्तभंग अधिकारी यांचेवर उपरोक्त चौकशी अहवाल स्वीकारणे बाबत तरतुद -

विभागीय चौकशी नियम पुस्तिका चौथी आवृत्ती १९९१ मधील प्रकरण क्रमांक ७ मधील ७.१ नुसार व महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ मधील पोट नियम ९ नुसार चौकशी प्राधिकरणाचा अहवाल शिस्तभंग अधिका-यास बंधनकारक नाही.

८. शिस्तभंग अधिकारी यांचे अभिमत व अंतिम आदेश.

तरी वरील वस्तुस्थितीनुसार व सादरकर्ता अधिकारी यांनी सादर केलेल्या टाचणानुसार संबंधित अपचारी श्री.राजेंद्र रावसो पाटील, तात्कालिन वनक्षेत्रपाल (वन्यजीव), कोयना यांनी लाच म्हणुन रक्कम स्विकारली किंवा कसे याबाबतचा निर्णय मा.न्यायालयाचे अंतिम निर्णयानुसार सिद्ध होणार आहे.

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अपचारी श्री.राजेंद्र रावसो पाटील, तात्कालिन वनक्षेत्रपाल (वन्यजीव) कोयना यांचे विरुद्ध लाचलुचपत प्रतिबंधक विभाग सातारा यांचेकडून दाखल केलेल्या गुन्ह्याच्या अनुषंगाने मा.अतिरिक्त जिल्हा व सत्र न्यायालय कराड यांचे कोर्टात सुरु असलेला दावा क्र.३९/१८, दिनांक २०.०६.२०१८ नुसार शिस्तभंग अधिकारी तथा वनसंरक्षक तथा क्षेत्र संचालक, सहयाद्री व्याघ्र राखीव कोल्हापूर हे खालीलप्रमाणे आदेश देत आहेत.

आदेश

१. अपचारी श्री.राजेंद्र रावसो पाटील, तात्कालीन वनक्षेत्रपाल (वन्यजीव) कोयना यांचे विरुद्ध लाचलुचपत प्रतिबंधक नियम १९८८ अंतर्गत न्यायप्रतिष्ठ असलेले प्रकरण महाराष्ट्र शासन सामान्य प्रशासन विभाग शासन निर्णय क्र.सीडीआर-१०९९/प्र.क्र.६२/०६/११-अ, दिनांक ०३.०४.२००० मधील बाब क्र.७ करीताचा सुधारीत सामान्य प्रशासन विभाग शासन निर्णय क्र.अभियो-१००६/प्र.क्र.११/०६/११-अ, दिनांक २३ जुलै २००७ मधील नियम क्र.७ नुसार व विभागीय चौकशी पुस्तिका चौथी आवृत्ती १९९१ मधील प्रकरण क्र.४ मधील पोट नियम क्र.४.२ मधील तरतुदीनुसार न्याय निर्णयाच्या अधिन राहुन महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ मधील पोट नियम १३ व विभागीय चौकशी पुस्तिका चौथी आवृत्ती १९९१ मधील प्रकरण क्र.४ मधील पोट नियम ४.६ नुसार दावा क्र.३९/१८, दिनांक २०.०६.२०१८ च्या निर्णयास अधिन राहुन आवश्यक कार्यवाही अवलंबिता येईल. अशा परिस्थितीत प्रस्तुत शिस्तभंग विषयक कार्यवाही पुढे चालू ठेवल्यास काही हेतु साध्य होईल असे वाटत नाही.
२. तसेच अपचारी श्री. राजेंद्र रावसो पाटील, तात्कालिन वनक्षेत्रपाल (वन्यजीव) कोयना यांचे विरुद्ध सुरु केलेले शिस्तभंग विषयक प्रकरणी त्यांना सक्त ताकीद देणेत येत आहे.”

3. Though, the contesting Respondent tried to support the impugned order on various grounds, it is apparent that the impugned order cannot be sustained.

4. The Disciplinary Authority, while passing the impugned order observed that nothing could be achieved by continuing the departmental proceeding as the question whether the Applicant had accepted gratification was to be decided by Special Court before whom the case was pending. Thus, the Disciplinary Authority did not decide one way or the other whether the charge against the Applicant in D.E. was proved and whether finding of Enquiry Officer could be upset or affirmed. The impugned order does not clearly spell out whether the departmental proceeding was thereby merely kept in abeyance or concluded. In either case, there was no question of issuing a “strict warning” to the Applicant. The question of passing any punitive order would have arisen only on the Disciplinary Authority coming to the conclusion that charge against the Applicant was proved.

5. The Applicant has also assailed the impugned order on the ground that Rule 5 of the Maharashtra Civil Services (Discipline and Appeal) Rules 1979 does not prescribe “strict warning” as one of the punishment and hence the impugned order cannot be sustained. In support of this contention, reliance is placed on a judgment of this Tribunal dated 25.04.2023 in **O.A.No.960/2019 (Shri Abhimanyu Kerure V/s State of Maharashtra & 3 Ors.)**. In this case, it is held :-

6. On hearing these submissions, we put query to the learned C.P.O, as to under what circumstances a warning is generally given in the administration. Learned C.P.O submits that warning is not a punishment under the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. These submissions of the learned C.P.O is acceptable. However, our query is not about the punishment, but under what circumstances a warning is given to a civil servant. Learned C.P.O on instructions from the officer present states that they are not in a position to submit.

7. Considering the submissions and the answer given to our queries, as per Maharashtra Civil Services (Discipline & Appeal) Rules, 1979, ‘warning’ is not a punishment. We understand that when a person is at fault or committed any wrong then he is required to be corrected or to be improved for which ‘warning’ is given. However, when a person has not done any wrong, all he has acted as per the rules, within his authority, then there is no need to give him the ‘warning’. The morale of the Civil servant matters. Nothing is pointed out to us and nothing is placed on record to support the remarks passed by the Hon’ble Minister. Needless to say, that every order passed or action taken by the authority should be fair and judicious adhering to the principles of natural justice. In the

present case, therefore, we hold that such remark and action of giving warning to the applicant in the present factual and legal scenario is unwarranted, unfair and arbitrary. Hence, it is necessary to invoke the power of judicial review to quash and set aside the said order of giving 'warning'.

6. In case, the Disciplinary Authority merely intended to keep the disciplinary proceeding in abeyance by passing the impugned order, such conclusion should have been spelt out in the order unambiguously. It would be open to the Disciplinary Authority to pass such order afresh, if deemed necessary. However, it is reiterated that order of issuing "strict warning" which is penal in nature ought not to have been, and cannot be passed. For all these reasons, the impugned order is quashed and set aside with no order as to costs.

Sd/-

(M. A. Lovekar)
Member (J)

Place: Mumbai

Date: 09.01.2025

Dictation taken by: V. S. Mane

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