

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.785 OF 2016

DISTRICT : PUNE

Mr. Vikas V. Wadekar.)
Age : 53 Yrs., Occu.: Head Quarter)
Assistant Class III, R/at : B-2, Shyamkrupa)
Society, Behind Shivaji Nagar Bus Stand,)
Pune 5.)...**Applicant**

Versus

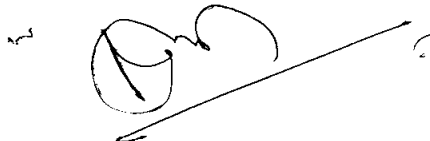
1. The District Superintendent of Land)
Records, Near SDO Office, Satara.)
2. The Deputy Superintendent of Land)
Records, Ratnagiri Godown Campus,)
At Post : Kasrad, Dist : Satara.)...**Respondents**

Mr. K.R. Jagdale, Advocate for Applicant.

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

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 24.01.2017



JUDGMENT

1. The Applicant calls into question the order herein impugned whereby minor punishment was imposed on him withholding his one increment for one year without cumulative effect.

2. I have heard Mr. K.R. Jagdale, the learned Advocate for the Applicant and Mrs. K.S. Gaikwad, the learned Presenting Officer for the Respondents.

3. The 1st Respondent is the District Superintendent of Land Records and the 2nd Respondent is the Deputy Superintendent of Land Records, Ratnagiri Godown Campus at Karad in Satara District.

4. The recourse was had to Rules 9 and 10 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 and minor punishment as hereinabove set out came to be imposed. There were two heads of charge. The first one was that the Applicant did not deposit the Measurement Fees in accordance with the Rules and the 2nd head of charge was that he recovered an amount of Rs.500/- short for Re-measurement Fees. He should have



charged it at Rs.2000/- while he actually charged Rs.1,500/-.

5. Mr. Jagdale, the learned Advocate for the Applicant told me that in so far as the first charge was concerned, the amount was not even taken out of the precinct of the Office. There was no question of any foul-play and misappropriation, etc. and in so far as the 2nd Charge is concerned, he invited reference to a notice part of Exh. 'C' collectively at Page 15 signed by the Respondent No.2 requiring the person concerned to deposit Rs.1,500/- as Re-measurement Fees. He, therefore, in effect told me that there was no case against the Applicant for any penalty and even the minor punishment is too major to suffer. Mrs. Gaikwad, the learned PO contended that the Applicant in his reply and also in the OA has not in any manner justified his action. She pointed out that for whatever the Applicant ended up doing the authority imposed on him only a minor penalty which is beyond the pale of any challenge.

6. Now, at this stage itself, I must make it quite clear that I exercise in matters like this one, the jurisdiction of judicial review of administrative action and my jurisdiction does not empower me to act as an appellate



authority. I have to make sure that the process leading up to the drawing of the conclusion was fully informed by the principles of natural justice, fair-play and straightforwardness. It is very clear that for all practical purposes, regard being had to the accusations, some kind of a summary procedure permissible by Rules was adopted. I cannot just for the asking arrogate to myself the role of the authorities below and that would be, even if I was of the view that sitting there, I might have taken a different view of the matter. The issue is as to whether there was some evidence which could be called sufficient to implicate. But sufficiency of it will be outside my purview.

7. I am not satisfied with the submissions of Mr. Jagdale in so far as the amount collected having not been deposited because the amount was not taken out of even the precinct of the Office. That is not the point. In the field relevant hereto, the term, 'deposit' has a distinctive connotation and if it mandates, then it must be deposited, so it must be deposited. There is no other serious charge even otherwise at the same time, total exoneration is out of question.

8. In so far as the 2nd charge is concerned, I am completely unimpressed by the submissions of the learned PO. No doubt, it was the duty of the Applicant to be

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careful but then the documented evidence was requisitioning the payment of Rs.1,500/- and that in fact was signed by the 2nd Respondent himself. If that was there, then of course, the Applicant could certainly not be held liable because the simplest of the tests would be that, with that document around would anybody have paid Rs.500/- more than and what was mentioned there whatever the Applicant might or might not have said or done.

9. That being the state of affairs although, I do not agree with the authorities below with regard to the 2nd charge, but in the ultimate analysis, there was no separate punishment awarded. It was the composite punishment and even for the first infraction, that punishment was not shockingly disproportionate, and therefore, I do not think, this is a case for quasi-judicial intervention much less interference. There is no merit in the OA and it is accordingly dismissed with no order as to costs.

Sd/-

(R.B. Malik)

Member-J

24.01.2017

24-1-17

Mumbai

Date : 24.01.2017

Dictation taken by :

S.K. Wamanse.

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