

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO.1032/2021 (D.B.)**

Naseeb Khan Mehboob Khan Singal,  
Aged 56 years, Occ. Service,  
R/o C/o Shri Gorakh Bhivsan Bargal,  
Mothi Ali, Near Bhadra Maroti Mandir,  
Khultabad, Tq. & Dist. Aurangabad.

... **APPLICANT**

**// V E R S U S //**

- 1] The State of Maharashtra,  
Through its Principal Secretary,  
Revenue and Forest Department,  
Mantralaya, Mumbai-32.
- 2] The Chief Conservator of Forest (Regional),  
Having its office at Camp Amravati – 444 602.
- 3] The Regional Departmental Enquiry Officer,  
Amravati Division, Amravati.

... **RESPONDENTS**

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**Shri S.P. Palshikar, Advocate for the Applicant.**

**Shri M.I. Khan, learned P.O. for the Respondents.**

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**Coram :- Hon'ble Shri Justice M. G. Giratkar,  
Vice Chairman and  
Hon'ble Shri Nitin Gadre,  
Member (A).**

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**Date of Reserving for Judgment : 10/12/2024**

**Date of Pronouncement of Judgment : 17/12/2024**

**J U D G M E N T****Per : Member (A).****(Delivered on this 17<sup>th</sup> day of December, 2024)**

Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. The present Original Application has been filed on 18/11/2021 with a prayer to quash and set aside the charge-sheet dated 06/09/2012 on the ground of delay and latches. The events as given by the applicant are as follows.

On 24/10/1983, the applicant entered into the Government Service as an Assistant Plantation Officer, Social Forestry, Jalna Division. In December, 2008, he was promoted as a Range Forest Officer and posted at Khamgaon. The applicant was suspended on 22/02/2012 based on certain complaints and charge-sheet was issued on 06/09/2012. The suspension was revoked on 29/05/2013. The applicant has mentioned in his Original Application that the enquiry is going on for the last 9 years and is liable to be quashed on the ground of inordinate delay. The material portion of the application is as follows:-

*“IX) It is further submitted that since the inquiry is going on from last 9 years the applicant has suffered a*

*great lost in the sense that he is deprived of getting further promotion because of pendency of departmental inquiry, his batchmates were promoted further and at present he is working as a subordinate officer of his batch mate, this is also a sort of punishment and the applicant cannot be said to be at fault for not completing the inquiry by respondent No.3 from last nine years, under this peculiar facts and circumstances applicant submits that charge sheet dated 06/09/2012 and inquiry No.98/2012 are liable to be quashed and set aside on the ground of inordinate delay.”*

3. After receipt of this application, notices were issued on 26/11/2021 by this Tribunal. During the next hearing on 24/12/2021, an interim order was passed by the Tribunal. The relevant portion of the order is as follows:-

*“However in view of observation made by Hon'ble High Court in W.P. No. 3656 of 2021 delivered on 22.09.2021 it is not possible to grant extra time to Government. After considering the pleadings, it is directed that no final order will be passed in the D.E. until further order.”*

4. The Respondent No.2 has filed his reply on 02/03/2022. The respondents have tried to explain the reasons for delay in their reply. The material portion of the reply is as follows:-

*“6. The respondent no.2 initiating the disciplinary proceeding against the applicant for his grave*

*misconduct. On dated 06.09.2012 the respondent no.2 issued the charge sheet against the applicant under Rule 8 of the M.C.S.(Discipline & Appeal) Rule, 1979. There are 4 major charges level against the applicant which is of serious in nature. The applicant was posted at the Khamgaon Forest Range as Range Forest Officer, during his tenure he was committed misconduct in terms of monitory gain to himself and loss cause to the Government. During his tenure he was tempered with the Government account and committed embalmment in tune of Rs.24,33,328/-. The applicant was violated the provisions under the Bombay Forest Manual Volume 1 Article No.6 (i), 101 (7) (ii) and M.C.S. (Discipline and Appeal) Rules, 1979 Rule 3 (1)(1), 3 (1)(2) and 3 (1)(3)(2)(3).”*

5. The Respondent No.2 has further explained that the enquiry is going on day-to-day basis and likely to be completed within next 6 months. This has been explained in Para 11 of the reply as follows:-

*“11. In the recent time, the enquiry proceeding before respondent no.3 is going on day to day basis which may be completed with six months. The presenting officer of Buldhana Forest Division, continuously take follow up of the proceeding. The respondent no.2 was issued the charge sheet and 4 serious charges level against the applicant. The charges of serious misconduct against the applicant are not proved due to pendency of examining the witnesses in the departmental proceeding. There are 34 witnesses out of 27 were examined by the Enquiry Officer. Among, 34 witnesses 3 witnesses died and one witness address is not stress out. Therefore, at this*

*stage the examination of the witnesses on the verge of completion and on the next coming days, the Enquiry Officer in the said matter concluding enquiry with his remarks. Therefore, this Hon'ble Tribunal may kindly looks into the seriousness of the matter and progress made by the respondent no.3 for completing the Enquiry.”*

6. The learned counsel for the applicant has submitted Judgments in support of his claim. The Hon’ble Supreme Court in the case of **Prem Nath Bali VS. Registrar, High Court of Delhi & Ano. AIR 2016 SCC 101, decided on 16/12/2015** has given direction that departmental enquiry is to be completed within a period of 6 months and in any event, it should be completed within one year.

The learned P.O. has submitted Judgments in support of his claim. Hon’ble Supreme Court in the case of **State of Madhya Pradesh & Ano. Vs. Akhilesh Jha & Ano. (2021) in Civil Appeal No.5153/2021**, decided on 06/09/2021 has held that:

*“ Every delay in conducting a disciplinary enquiry does not, ipso facto, lead to the enquiry being vitiated. Whether prejudice is caused to the officer who is being enquired into is a matter which has to be decided on the basis of the circumstances of each case.”*

7. The learned counsel for the applicant has also submitted a Judgment of this Tribunal in O.A. No.667/2023. In

this O.A., departmental enquiry was quashed and set aside because of delay in completing the departmental enquiry.

8. It can be seen from the record that the charges against the applicant are of serious in nature. The respondents have also stated in their reply that they are trying to expedite the enquiry. The learned P.O. has stated that the enquiry is completed, but in view of the interim order of this Tribunal dated 24/12/2021, the respondents are not able to take any decision in this regard. This case is different from the case considered in O.A. No.667/2023. The charges in the O.A. No.667/2023 against the applicants were of minor in nature and the D.E. was not completed within time, therefore, the applicant was deprived of pension and pensionary benefits. The respondents were directed by the Tribunal to complete the departmental enquiry before the next date. However, the respondents failed to take any decision. Therefore, the Tribunal decided to quash the departmental enquiry. Hence, the circumstances in the O.A. No.667/2023 are not similar to the present case.

9. In the present matter, the charges are of serious in nature. The learned P.O. has stated that the D.E. has been

completed and the respondents are not able to take a decision in this enquiry because of the interim stay by the Tribunal dated 24/12/2021. As mentioned in the above Para. 6, the Hon'ble Supreme Court has held that every delay in Disciplinary Enquiry does not lead to enquiry being vitiated, therefore, we proceed to pass the following order:-

**O R D E R**

- (i) O.A. is disposed of.
- (ii) The interim order passed by this Tribunal on 24/12/2021 is vacated. The Respondents are directed to pass final order in D.E. on its own merit within a period of four months from the date of this Order.
- (iii) No order as to costs.

**(Nitin Gadre)**  
**Member (A).**

**(Justice M.G.Giratkar)**  
**Vice Chairman.**

**Dated :-17/12/2024.**  
**PRM.**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Piyush R. Mahajan.

Court Name : Court of Hon'ble Vice Chairman  
& Member (A).

Judgment signed on : 17/12/2024