

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO.1134/2022(D.B.)**

Gajay Babarao Lambade,  
aged-49 years, Occ.- Service,  
R/o 1116, Gajanan Township No. 5,  
Kathora Road, Amravati.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through its Secretary,  
Department of Forest,  
Mantralaya Mumbai-32.
- 2) Chief Conservator of Forest and Field Director,  
Pench Tiger Reserve, Near Govt. Press,  
Zeromiles, Civil Lines, Nagpur.
- 3) Chief Conservator of Forest and  
Field Director, Tiger project,  
Camp, Amravati.

**Respondents**

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Shri R.V.Shiralkar, Ld. Counsel for the applicant.  
Shri A.P.Potnis, Ld. P.O. for the respondents.

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**Coram:-** Hon'ble Shri M.A.Lovekar, Member (J) &  
Hon'ble Shri Nitin Gadre, Member (A).

**Dated:-** 17<sup>th</sup> October, 2024.

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**JUDGMENT**

**Judgment is reserved on 10<sup>th</sup> October, 2024.**

**Judgment is pronounced on 17<sup>th</sup> October, 2024.**

**Member (J)**

Heard Shri R.V.Shiralkar, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the respondents.

2. In April, 2016 when the applicant was working as Range Forest Officer in Tipeshwar Sanctuary, Pandharkawda, a wildfire broke out in the Sanctuary. By order dated 22.04.2016 (Annexure A-1) respondent no.2 placed the applicant under suspension. Order of reinstatement was passed on 01.09.2016 but he was given a non-executive post as per G.R. dated 14.10.2011 (Annexure A-2). In between, the applicant was served with a charge sheet dated 07.07.2016 (Annexure A-3). In the charge sheet it was alleged that because of negligence of the applicant wildfire had broken out and Government had sustained huge loss. By reply dated 18.07.2016 the applicant denied the charges.

3. During the enquiry statements of witnesses were recorded. Thereafter, with covering letter dated 05.09.2022 (Annexure A-6) the Presenting Officer submitted his written submission to the Enquiry Officer. On 03.10.2022 the applicant submitted his statement of defence (Annexure A-7). According to the applicant, the enquiry has

made no further progress, pendency of enquiry has come in the way of his promotion, the enquiry is pending for more than 8 years and such delay is opposed to G.R. dated 01.08.2019 (Annexure A-8) and Judgment of the Hon'ble Supreme Court dated 16.12.2015 i.e. **Premnath Bali Vs. Registrar, High Court of Delhi.** Hence, this O.A. to quash the departmental enquiry.

4. Stand of respondent no.3 is as follows. Non-joinder of the Special Enquiry Officer will be fatal. Charges which are subject matter of the enquiry are quite serious. Delay in concluding departmental enquiry *ipso facto* does not vitiate the same. The applicant has to, in addition, demonstrate that inordinate delay in concluding enquiry has caused serious prejudice to him. By order dated 20.03.2018 (Annexure R-6) another Enquiry Officer was appointed by cancelling previous order of appointment of Enquiry Officer dated 17.10.2016 (Annexure R-5). Covid Pandemic and other causes beyond the control of the department contributed greatly to delay in concluding enquiry.

5. Departmental enquiry which started with service of charge sheet dated 07.07.2016 on the applicant is still at the stage of submission of report of Enquiry Officer. The Pandemic subsided more than two years ago. The applicant has relied on the Judgment of

this Bench dated 30.09.2024 in O.A.No.667/2023 wherein legal position is discussed as follows-

11. *The Hon'ble Supreme Court in the case of Prem Nath Bali Vs. Registrar, High Court of Delhi &Anr., 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. After the Judgment of Hon'ble Supreme Court in the case of PremNath Bali Vs. Registrar, High Court of Delhi &Anr., decided on 16.12.2015, The Revenue and Forest Department has issued G.R. dated 18.04.2023. The material part of the G.R. is reproduced below-*

**क) महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ चे नियम ८ अंतर्गत कार्यवाही :-**

१) महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ चे नियम ८ अंतर्गत दोषारोपपत्र बजावल्यानंतर कोणत्याही परिस्थितीत विभागीय चौकशी ६ महिन्यात संपुष्टात आणण्याची दक्षता शिस्तभंगविषयक प्राधिकारी / चौकशी प्राधिकारी यांनी घ्यावी.

२) विभागीय चौकशी विहीत मुदतीत संपुष्टात आणणेकरीता **परिशिष्ट-अ** प्रमाणे कालबद्ध कार्यक्रम ठरवून देण्यात येत आहे.

३) काही प्रकरणांमध्ये उचित व पुरेशा कारणासाठी सहा महिन्यांच्या विनिर्दिष्ट काळामध्ये विभागीय चौकशी पूर्ण करणे शक्य नसेल तर मुदतवाढीबाबत सामान्य प्रशासन विभाग, शासन परिपत्रक दिनांक ७ एप्रिल २००८ प्रमाणे कार्यवाही करावी.

४) विभागीय आयुक्त यांचे कार्यालयातील चौकशी अधिका-यांकडे प्रलंबित असलेल्या प्रकरणांची संख्या विचारात घेऊन प्रकरणी यथा शिघ्र निकालात काढण्याचे दृष्टीने कंत्राटी चौकशी अधिकारी यांचेकडे प्रकरण सोपविण्याबाबत निर्णय घेण्यात यावा.

**परिशिष्ट-अ**

**महाराष्ट्र नागरीसेवा (शिस्त व अपील) नियम १९७९ चे नियम ८ अंतर्गत**

**कार्यवाहीसाठी कालबद्ध**

**कार्यक्रम**

अ. क्र.	तपशील	कालावधी
१.	निलंबित केले असल्यास दोषारोपपत्र बजावणे	९० दिवसांचे आत
२.	दोषारोपपत्र बजावल्यानंतर अपचारी यांचेकडून अभिवेदन प्राप्त करून घेणे	१० दिवस
३.	अपचारी यांनी आरोप कबुल न केल्यास चौकशी अधिकारी व सादरकर्ता अधिकारी यांची नियुक्ती करणे	१० दिवस
४.	विभागीय चौकशी अधिकारी यांनी चौकशी अहवाल सादर करणे	४ महिने
५.	चौकशी अधिकारी यांचा अहवाल प्राप्त झाल्यानंतर त्यावरील निष्कर्षासहीत अपचारी यांना अभिवेदन सादर करण्यास कळविणे	१० दिवस
६.	चौकशी अहवालावर अपचारीयांचे अभिवेदन प्राप्त करून घेणे	१५ दिवस
७.	चौकशी अहवाल, अपचा-याचे अभिवेदन विचारात घेऊन शिस्तभंगविषयक प्राधिका-याने निर्णय घेणे / जबर शिक्षेचा प्रस्ताव नियुक्ती प्राधिका-यास पाठविणे.	१५ दिवस

13. *This Tribunal in O.A.No.699/2022 decided on 09.07.2024 quashed and set aside the departmental enquiry relying on the Judgment of Hon'ble Supreme Court in the case of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Anr., decided on 16.12.2015** and the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.7068/2023 decided on 19.10.2023. The material part of the Judgment of this Tribunal in O.A.No.699/2022 in para nos.17, 18, 19 and 20 are reproduced below-*

17. *The learned counsel for applicant has pointed out the decision of the Hon'ble Bombay High Court, Bench at Nagpur in W.P. No.7068/2023, decided on 19/10/2023. The Hon'ble High Court in para-14 & 15 held as under –*

*“ (14) The delay in conducting the enquiry which has occurred in this case has naturally caused sufferings to the respondent who retired way back on 31st August, 2015. As held by the Hon'ble Supreme Court in the case of Prem Nath Bali (supra), it is the duty of the employer to ensure that the departmental enquiry initiated against a delinquent employee is conducted within the shortest possible time by taking priority measures. Such observations of the Hon'ble Supreme Court assume more significance in case the departmental proceedings are to be drawn against a retired*

*employee, that too, for enquiring into the allegations which are not so grave rather are minor in nature.*

*15. For the aforesaid reasons, we do not find any good ground to interfere with the judgment passed by the Tribunal, which is under challenge in this writ petition.*

*18. In W.P. 3656/2021, the Hon'ble Bombay High Court, Bench at Nagpur has held in para-6 as under – "(6) The learned Assistant Government Pleader has filed the reply and opposed the application stating that the order passed by the Maharashtra Administrative Tribunal is without jurisdiction as the petitioner is transferred to Nashik and the Enquiry Officer from the Regional Departmental Enquiry Office, Nashik had conducted and completed the departmental enquiry. The petitioner would not have invoked the jurisdiction of the Administrative Tribunal at Nagpur. In the affidavit, respondent No.2 has stated that the enquiry is conducted in the stipulated time and submitted detailed enquiry report on 06.11.2020 to the respondent No.1 and has supported the order passed by the learned Maharashtra Administrative Tribunal on 19/07/2021."*

*19. The learned P.O. has pointed out the Judgment in O.A.No.740/2018. Relying on the decision of the Hon'ble Supreme Court in the case of State of M.P. and Ano. Vs. Akhilesh Jha and Ano., 2022 (1) Mh.L.J.,557, this Tribunal has directed to decide the inquiry expeditiously. The said orders were already passed by this Tribunal on 16/01/2024 and 19/01/2024. Those orders are reproduced above. It appears that the respondents are not following the direction of this Tribunal. They are not taking any final decision. Hence, cited decision in O.A.No.740/2018 is not applicable. Another Judgment of C.A.T. in O.A.No.2464/2016 is also on the same footing.*

*20. The Judgment of the Hon'ble Supreme Court in the case of Prem Nath Bali Vs. Registrar, High Court of Delhi, AIR 2016 SC 101 is considered in Writ Petition No.7068/2023. As per the Judgment of the Hon'ble Supreme Court in the case of Prem Nath Bali Vs. Registrar, High Court of Delhi (cited supra), it is clear that the employer shall*

*complete the departmental inquiry within six months and outer limit is given one year. The respondents are keeping the departmental inquiry pending against the applicant since last 13 years. The letter sent to the C.P.O. dated 19/01/2024 clearly shows that till date respondent no.1 has not submitted any proposal to the M.P.S.C. for approval. Therefore, it is clear that the respondents are lingering the departmental inquiry only to harass the applicant. Hence, in view of the Judgment of the Hon'ble High Court in the above referred Writ Petitions, it is clear that the departmental inquiry needs to be quashed and set aside. Hence, we pass the following order –*

**ORDER**

- (i) The O.A. is allowed.*
- (ii) The departmental inquiry initiated vide office memorandum / charge sheet dated 22/08/2013, is hereby quashed and set aside.*
- (iii) The respondents are directed to release the full pension and pensionary benefits to the applicant within a period of three months from the date of receipt of this order.*
- (iv) No order as to costs.*

6. Respondent no.3, on the other hand has relied on **State of M.P. and Another Vs. Akhilesh Zha and another** (Judgment of Hon'ble Supreme Court in Civil Appeal No.5153/2021 dated 06.09.2021). In this ruling it is observed –

*The Tribunal would have been justified in directing the expeditious conclusion of the enquiry, but instead, it proceeded to quash the enquiry in its entirety. This, in our view, was clearly impermissible. 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.*

*Prejudice must be demonstrated to have been caused and cannot be a matter of surmise.*

7. In his rejoinder the applicant has asserted-

*It is submitted that the delay in the departmental enquiry has caused prejudice to the applicant as his promotion has been stalled.*

*Prejudice of the applicant needs to be seen while dealing with inordinate delay in conducting departmental enquiry.*

This assertion of the applicant has not been traversed by respondent no.3.

8. The enquiry against the applicant which began in the year 2016 cannot be allowed to be dragged indefinitely. Respondent no.3 has not furnished cogent reasons why the enquiry could not be taken to its logical conclusion expeditiously. On the other hand, the applicant has demonstrated that prolonged pendency of the enquiry has adversely affected his prospects of promotion. In our view reasonable time limit will have to be set to conclude the enquiry to avoid further delay and prejudice to the applicant. The O.A. is, therefore allowed in the following terms-



The respondents are directed to conclude the enquiry within 6 months from the date of receipt of this order failing which the enquiry shall stand automatically quashed. No order as to costs.

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

**(M.A.Lovekar)**  
**Member (J)**

**Dated – 17/10/2024**  
rsm.

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

Name of Steno : Raksha Shashikant Mankawde  
Court Name : Court of Hon'ble Member (J) &  
Hon'ble Member (A).  
Judgment signed on : 17/10/2024.  
and pronounced on