

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO.21/2022 (D.B.)**

Shri Deepak Gulabrao Bhagat,
Aged 63 years, Occupation- Nill,
R/o C/o. Shri Maraskolhe, Shastri Ward,
Hinganghat, District – Wardha 442 301.

... **APPLICANT**

// V E R S U S //

- 1] Government of Maharashtra,
Through its Secretary,
Ministry of Home, Mumbai.
- 2] Police Superintendent, Wardha,
Police Headquarter, District- Wardha.
- 3] Special, IGP, Nagpur Region Nagpur,
Near Sadar Police Station, Civil Lines,
Nagpur 440 001.
- 4] Addl., Director of Police (Administration),
Department of Ministry of Home,
Main Building II floor, Madam Kama Road,
Hutatma Square, Secretariat,
State of Maharashtra, Mumbai.400 032.

... **RESPONDENTS**

S/Shri T. Rahul, Sonali Telang, Advs. for the Applicant.
Shri S.A. Sainis, learned P.O. for Respondents.

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

Dated :- 16/12/2024.

J U D G M E N T

Heard Shri T. Rahul, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondents.

2. The case of the applicant in short is as under :-

The applicant was working as a Police Constable with respondent no.2 since 03/03/1982. The respondents have initiated departmental enquiry against the applicant on the ground that he has performed second marriage, when his first wife was in existence and without permission of his Department. The charge-sheet was issued to the applicant on 11/04/2002. Enquiry Officer has conducted the Departmental Enquiry. Enquiry Officer has submitted the inquiry report. The Disciplinary Authority has taken the decision of dismissal of the applicant. The Appeal was filed before the First Appellate Authority. The order of dismissal was modified and applicant is compulsorily retired. Thereafter, second Appeal was filed before the State Home Minister. That appeal came to be dismissed on 09/06/2021. Hence, the applicant approached to this Tribunal for the following relief:-

“(i) to quash and set aside the show cause notice dated 17th April 2003, Punishment Order dated 6th June 2003, Appellate order dated 19.12.2003, 19.4.2005 and 17.6.2021. Annexure B, C, D, E and F.

(ii) to issue direction to the respondents to count his service period from the date of removal to till the date of his superannuation period and to revise his pensionery and all consequential benefits accordingly.

(iii) to issue direction to the respondent to pay his back-wages till the date of his superannuation period.”

3. The O.A. is strongly opposed by the respondents. It is submitted that as per the provisions of the Maharashtra Civil Services (Conduct) Rules, 1979, applicant cannot perform second marriage without divorcing his first wife during her lifetime. The applicant has performed the second marriage without any divorce from first wife, during her lifetime. Hence, it is a misconduct of the applicant. The said misconduct is proved in the enquiry. The applicant was dismissed from service. But the First Appellate Authority modified the said order and compulsorily retired the applicant. Hence, the O.A. is liable to be dismissed.

4. During the course of submission learned counsel for applicant has submitted that proper opportunity was not given to the applicant and therefore prayed to allow the O.A.

5. Learned P.O. Shri S.A. Sainis has submitted that opportunity was given to the applicant. After hearing the applicant, the punishment order was passed. The applicant has

also availed remedy before the Appellate Authority. The First Appellate Authority modified the order of punishment of dismissal into compulsory retirement. The Second Appellate Authority has dismissed the Appeal. Hence, O.A. is liable to be dismissed.

6. As per the enquiry report, the applicant has performed second marriage without any divorce from his first wife. His first wife was alive. It is a misconduct as per the Maharashtra Civil Services (Conduct) Rules, 1979. Opportunity of hearing was given to the applicant before passing final order. Hence, the punishment awarded by the respondents is properly legal and correct. Hence, we proceed to pass the following order:-

O R D E R

(i) The O.A. is dismissed.

(ii) No order as to costs.

(Nitin Gadre)
Member (A).

(Justice M.G.Giratkar)
Vice Chairman.

Dated :-16/12/2024.

dnk.

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

Name of Steno : D.N. Kadam.

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

Judgment signed on : 16/12/2024

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