

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.719/2016(S.B.)

Bandulal s/o Shyamji Date,
Aged about 54 years, r/o Narayan Nagar,
Kudwa, Tah. and Dist.-Gondia.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Department of Revenue and Forest,
Madama Cama Marg, Hutatma Rajguru Square,
Secretariat, Bombay, 400032.
- 2) Collector, Gondia,
Tah. & Dist. Gondia.
- 3) Sub-Divisional Officer,
Tirora, Tah. Tirora, Dist. Gondia.
- 4) Tahsildar, Tirora Tah.
Tirora, Dist. Gondia.

Respondents.

Shri G.G.Bade, Ld. Counsel for the applicant.
Shri S.A.Sainis, Ld. P.O. for the respondents.

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

Dated: - 08th August, 2024.

JUDGMENT

Judgment is reserved on 02nd August, 2024.

Judgment is pronounced on 08th August, 2024.

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

2. Facts leading to this O.A. are as follows. On 16.10.2015 respondent no.4 wrote a letter (Annexure No.1) to respondent no.3 that the applicant was not discharging his duties in respect of furnishing information about the extent to which various targets set were attained. He proposed punishment of withholding of three increments without cumulative effect for the applicant. Copy of letter dated 16.10.2015 was forwarded to respondent no.2. On the basis of recommendation of respondent no.4 contained in letter dated 16.10.2015, respondent no.3 passed order dated 28.10.2015 (Annexure A-1) imposing punishment of withholding of three increments without cumulative effect on the applicant, by resorting to Rule 5(1)(iv) of the M.C.S. (Discipline and Appeal) Rules, 1979. In appeal preferred by the applicant respondent no.2 reduced the punishment to withholding of two increments without cumulative effect, by order dated 29.09.2016 (Annexure A-2). Orders at Annexures A-1 and A-2 are impugned in this O.A..

3. Stand of respondent no.3 is that the applicant was repeatedly warned to properly discharge his duties, he was made aware of his lapses and only thereafter punishment was imposed. Further stand of respondent no.3 is that this Tribunal is not a Court of appeal and hence, it cannot go into the question of facts and punishment which is based on it.

4. Legal position is well settled that this Tribunal can certainly determine whether procedure for imposition of penalty was followed. Rule 10 of the M.C.S. (Discipline and Appeal) Rules, 1979 lays the following procedure for imposing minor penalty-

10. Procedure for imposing minor Penalties-

(1) Save as provided in sub-rule (3) of rule 9, no order imposing on a Government servant any of the minor penalties shall be made except after

(a) informing the Government servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in rule 8, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking into consideration the representation, if any, submitted by the Government servant under

clause (a) of this rule and the record of inquiry, if any, held under clause (b) of this rule;

(d) recording a finding on each imputation of misconduct or misbehaviour; and

(e) consulting the Commission where such consultation is necessary.

(2) XXX

(3) XXX

Aforequoted procedure in Rule 10(1)(a) was not followed in this case before imposing the punishment. This flaw will be fatal. In the result, the O.A. is allowed. Both the impugned orders (Annexures A-1 and A-2) are quashed and set aside. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 08/08/2024
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).
Judgment signed on : 08/08/2024.
and pronounced on
Uploaded on : 08/08/2024.