

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO.950/2020 (D.B.)**

Madanlal S/o Dashrath Jaiswal,
 Aged 64 years, Occ.: Retired From Service,
 R/o. 30, Smruti Nagar, Behind Dighori Bus Stop,
 Umred Road, Nagpur.

Applicant.**Versus**

- 1) State of Maharashtra,
 In the Ministry of Revenue & Forest,
 Mantralaya, Mumbai-32,
 Through its Principal Secretary.
- 2) Principal Chief Conservator of Forest,
 State of Maharashtra, Nagpur.
- 3) Chief Conservator of Forest (Regional),
 Nagpur.
- 4) Dy. Conservator of Forest,
 Gondia Division, Nagpur

Respondents

Shri M.R.Puranik, Ld. Counsel for the applicant.

Shri A.M.Khadatkar, Ld. P.O. for the respondents.

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

Dated:- 13th December, 2024.

JUDGMENT

Judgment is reserved on 17th October, 2024.

Judgment is pronounced on 13th December, 2024.

Member (J)

Heard Shri M.R.Puranik, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the respondents.

2. Facts leading to this O.A. are as follows.

The applicant was working as Range Forest Officer, Ramtek Range. On 20.06.2013 a charge sheet was issued to him. By order dated 12.09.2014 respondent no.3 imposed punishment of bringing him to the lowest stage of pay scale of R.F.O., and recovery of Rs.04,66,210/-. By order dated 16.09.2014 respondent no.3 directed further recovery of Rs.77,113/-. The applicant preferred appeals against these orders before respondent no.2. He retired on superannuation on 30.09.2014. Because these appeals were not decided by respondent no.2 he filed O.A.No.782/2015 before this Bench. It was disposed of by order dated 17.02.2016 (Annexure A-9) by directing respondent no.2 to decide the appeals within three months from the date of receipt of the order. Liberty was given to the applicant to approach this Tribunal if he was aggrieved by the decision in appeals. The appeals were still not decided. Therefore, the applicant issued a notice dated 21.01.2020 (Annexure A-11) to respondent no.2.

3. In their reply dated 18.08.2022 respondents 2 to 4 have pleaded –

“Normally the Appellate Authority in this case is the Hon'ble Minister (Forests) but the Forest Department had no independent Hon'ble Minister in charge for a long time, as he had resigned from the post, and the Hon'ble Chief Minister was holding the charge of the Forest Minister. Since the Hon'ble Chief Minister of the State could not find time due to heavy burden of important administrative works and also the work was badly affected due to COVID-19 restrictions and therefore, the work could not be pursued within stipulated time frame. In view of paucity of time, the Hon'ble Chief Minister, in some cases, had directed the Hon'ble Minister (Agriculture) to peruse the said appeal and take decision in this matter. Therefore, the Revenue and Forest Department was required to submit this file before the Hon'ble Minister (Agriculture), for taking final decision on the appeal. But due to pandemic situation and heavy rains in State, the Hon'ble Minister (Agriculture) was not able to take decision in other cases also.

In the month of July, 2022 there was no designated Forest Minister and thereafter due to some political crisis, the Government has changed and now in the month of August, 2022 the new Minister for Forest has been inducted in the ministry. Now the concerned administration will put up the file before the Hon'ble Minister (Forest) to hear the appeal.”

On 23.02.2023 this Bench passed the following order-

“Heard Shri M.R.Puranik, Id. counsel for the applicant and Shri A.M.Khadatkar, the Id. P.O. for the respondents.

2. *On 20.02.2023 statement of learned P.O. was recorded that appeal preferred by the applicant was to come up for hearing before the Hon'ble Minister on 21.02.2023.*

3. *Today, on behalf of the applicant an affidavit is filed. In para 4 of the affidavit the applicant has asserted-*

4. *I further say and submit that after the matter was called out on 20/20/2023 at around 12*

pm, the Applicant received a phone call at around 4.30 pm on 20/20/2023 from the office of NA No.3 informing about hearing before the Hon'ble Minister fixed on 21/02/2023 at 3.30 pm and further asked for address of the Applicant for sending the notice of the same. That thereafter the Applicant received a phone call at around 6.00 pm from Mantralaya, Mumbai once again informing about hearing before the Hon'ble Minister and further confirmed with the Applicant about reaching for the hearing. That the Applicant immediately informed the concerned person that not only did the Applicant never receive any notice about the hearing but reaching Mumbai within a period of 12 hours is impossible.

4. Learned P.O. has placed on record communication dated 22.02.2023 (marked Exhibit-X for identification). In para 2 of this communication it is stated –

आपलेकडील संदर्भीय क्रमांक ३ ँ न्वये मुळ ँ र्ज क्रमांक ९५०/२०२० मध्ये दिनांक २०.०२.२०२३ रोजी सुनणी तारीख ठेपण्या आली त्यामध्ये यासंदर्भात दिनांक २३.०२.२०२३ रोजी पुनः सुनणी ठेपण्या आली ँ सल्ये सदरकर्ता ँ अधिकारी यांनी दिनांक २०.०२.२०२३ रोजी दुरध्वनीद्वारे कळविले. तथापि संदर्भ क्रमांक ४ ँ न्वये श्री. मदनलाल दशरथ जैस्वाल यांचे ँ पीलवार ँ पिलीय प्राधिकारी तथा मम मन्त्री (पने) यांनी दिनांक २१.०२.२०२३ रोजी दुपारी ३.३० ँजत मंत्रालय परिषद सभागृह ७ ँ मजलमल क्र. ५ येथील बैठक कक्ष सुनणी झालेली आहे. सदर प्रकरणात झालेल्या सुनणीचा ँ हल शसनकडून याकालास प्रतिक्षेत आहे. तरी दिनांक २३.०२.२०२३ रोजी होणाऱ्या सुनणीत सदर बाब मम महाराष्ट्र प्रशासकीय न्यायधिकरण, नारायण यांचे निदर्शनास आणून देण्यात यावी हि णिंती.

5. Today, on behalf of the respondent department Administrative Officer Shri D.B.Marbate is present.

6. Para 4 of the affidavit of the applicant prima facie shows that sufficient intimation was not given to him so as to enable him, to attend the appeal proceeding. It is the contention of the respondent department that the appeal was heard. The applicant has categorically stated that he did not attend the appeal proceeding because it was practically impossible for him to do so.

7. For the reasons stated above we have come to the conclusion that the respondent department should file a detailed affidavit regarding hearing of the appeal by the Hon'ble Minister on 21.02.2023.

8. S.O. 01.03.2023.
9. Steno copy is granted.”

On 17.03.2023 respondent no.3 filed additional affidavit stating therein –

“It is submitted that, at the time of hearing before the Hon'ble Minister (Forest), Principal Chief Conservator of Forest (Administration Sub-Ordinate) and Chief Conservator of Forest Territorial), Nagpur were personally present and they submitted their submission on behalf of the Department at the time of hearing. The Hon'ble Minister (Forest) Maharashtra State, Mumbai told them to submit written notes of argument/ submission if any. The said argument took place at Minister's residence (Forest) Parnakuti, Malbar Hills, Mumbai at that time the Applicant remained absent in spite of the Applicant has already communicated by way of Whatsapp on 20.02.2023 regarding date of hearing. The copy of Whatsapp communication dated 20.02.2023 is annexed herewith as Annexure-R-1.”

4. There appears to be no dispute that appeals filed by the applicant are still not decided. Record shows that on 21.02.2023 the applicant did not remain present for hearing of appeals. According to him, at such a short notice it was not possible for him to participate in the hearing of appeals before the Appellate Authority.

5. It was argued by Advocate Shri M.R.Puranik for the applicant that on account of inordinately long duration of pendency of appeals before the Appellate Authority, the entire proceedings which

commenced with charge sheet dated 20.06.2013 deserves to be quashed and set aside. As mentioned earlier, the appeals were kept for hearing on 21.02.2023 and, according to the applicant, since he received this intimation around 4.30 pm on 20.02.2023. It was not possible for him to participate in the hearing. Record shows that by Judgment an order dated 17.02.2016 in O.A.No.782/2015 this Tribunal had directed that the appeals shall be decided within three months from the date of receipt of the order. Liberty was given to the applicant to approach this Tribunal if he was aggrieved by the decision in appeals. The Appellate Authority did not decide the appeals within the stipulated time frame. Thus, cause of action to file instant O.A. can be said to have arisen on account of failure of the Appellate Authority to decide the appeals.

During the pendency of this O.A. by order dated 02.12.2022, directions were issued to respondent no.2 to decide the appeals within one month from the date of receipt of the order. The appeals were still not decided. Considering all these circumstances, and especially utter disregard shown by the Appellate Authority for orders passed by this Tribunal not once but twice by not deciding the appeals within the stipulated time frame, we have come to the conclusion that the Appellate Authority should be given one more opportunity to decide the appeals within the time to be stipulated by this Tribunal. However,

to ensure compliance of directions which are going to be issued by this Judgment and order, consequence for non-compliance, too, will have to be provided. Respondent no.1 shall intimate the applicant, at list one week in advance, date of hearing of the appeals, and hear the appeals on that day. The appeals shall be decided within four months from today failing which the enquiry proceeding against the applicant shall stand quashed without further reference to the Tribunal. No order as to costs.

(Nitin Gadre)
Member(A)

(M.A.Lovekar)
Member(J)

Dated – 13/12/2024
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 : 13/12/2024.
and pronounced on