

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.973/2022 (D.B.)

Devendra Uttam Gawai,
 Aged about 67 years, Occupation: Retired,
 R/o Pachla, Post Naigaon (Dattapur),
 Tq. Mehakar, Distt. Buldhana.

... **APPLICANT**

// V E R S U S //

- 1] The State of Maharashtra,
 Through it Secretary,
 Department of Agriculture,
 Animal Husbandry & Dairy Development,
 Mantralaya, Mumbai-32.
- 2] The Commissioner of Agriculture,
 M.S., Central Building, Pune.
- 3] The Regional Joint Director of Agriculture,
 Amravati Region, Amravati.

... **RESPONDENTS**

Shri G.K. Bhusari, Advocate for the Applicant.

Shri A.M. Khadatkhar, learned P.O. for Respondents.

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

Date of Reserving for Judgment : 20/12/2024

Date of Pronouncement of Judgment : 03/01/2025

J U D G M E N T**Per : Member (A).****(Delivered on this 03rd day of January, 2025)**

Heard Shri G.K. Bhusari, learned counsel for the applicant and Shri A.M. Khadatkhar, learned P.O. for the respondents.

2. An application dated 27/09/2022 has been filed to quash the Departmental Enquiry pending since 2011. The relevant portion is as follows:-

“ Applicant has joined the services of the Respondents as an Agriculture Supervisor in the year 1980. Thereafter after considering the service record of the Applicant, he has been promoted on the post of Agriculture Officer in the year 1984 and Applicant has been promoted on the post of Agriculture Officer in the year 2007.

While working as a Taluka Agriculture Officer at Buldhana during period between 2007 to 2010, the Government of Maharashtra has issued Special Vidarbha Package as well as Hon'ble Prime Minister Package to the farmers, considering the background that the number of farmers residing in Vidarbha Region have committed suicide and therefore, considering all these aspects, the said packages came to be implemented in Vidarbha Region. Under these packages the State Government has extended their

hands by providing an amount of Rs.25,000/- to each farmer belonging to economically backward class and in the said package it has been decided to provide 14 types of agricultural tools to the farmers including bullock cart, bull pair and earthworm manure, machineries etc.

Respondent No.2 has issued a charge-sheet on 22nd July, 2011 to the Applicant. Bare perusal of the charge-sheet and the enclosures attached, this Hon'ble Tribunal will find that there are only Four charge levelled against the Applicant.

Applicant had given detailed reply to the charge-sheet; the Respondent did not take into account the detailed reply of the Applicant and decided to start Departmental Enquiry against the Applicant.

As clarified above the Respondent No.2 has issued charge-sheet on 22.7.2011 and after a lapse of 11 years nothing fruitful has come out till date and only the farce of the inquiry has been made. It is submitted here that; the Applicant had been retired in the year 2012. However, in the name of pendency of departmental enquiry no retiral dues have been paid to the Applicant till date. This inaction on the part of the Respondents is under challenge by filing this Original Application.

By the present Original Application, the Applicant is challenging the Charge-sheet, dated 22/07/2011 served on the Applicant by the Respondent No.2 and is also praying for grant of retrial benefits along with interest accrued thereon since the Applicant is retired on 31.01.2012.”

3. The Respondent No. 3 has filed reply dated 01/03/2023 opposing the request by the applicant. The reply states that a common enquiry was started against 43 employees. The Respondent claims that the enquiry against the applicant was pending due to Covid-19 Pandemic. The relevant portion is as follows:

“9. It is submitted that, at present, out of enquiry of 43 employees, enquiry of 28 employees have been completed and the report has been forwarded to the Competent Authority by the Enquiry Officer. It is submitted that, the enquiry as regards to 15 employees is pending for final report. It is submitted that, as per Rule-12 of Maharashtra Civil Services (Discipline and Appeal) Rules, 1979, a common proceeding was initiated against the employees.

10. It is submitted that, the State of Maharashtra has brought into a force a policy known as Vidarbha Package, during implementation of the policy about 43 employees and 8 officer employees have committed irregularity and therefore as per the report of Reddy Committee the State Government has initiated departmental enquiry against these employees which includes the Applicant. Accordingly, the enquiry has initiated under Rule-8 and 12 of Maharashtra Civil Services Rules (Discipline and Appeal) 1979 against 43 employees and under Rules-27 of Maharashtra Civil Services (Pension) Rules, 1982 against 8 officer employees including this Applicant. A copy of chart showing details of names, designation of 49 officers/

employee including this Applicant is annexed herewith and marked as Annexure-R-I.

11. The divisional enquiry is pending against the applicant due to Covid-19 Pandemic situation since 1 year. But witness had already registered their statement and pending for enquiry officer final report.”

The respondent also claims that the retirement benefits to the applicant have already been given as follows:

“12. It is submitted that, these Respondents Dearness Allowance on basic Pension Rs.33550/- per month was paid to the Applicant from 01/06/2021 till 31/12/2022. A sum of Rs. 428650/- towards Leave Encashment has been paid on dated 09/05/2012 to the Applicant and a sum of Rs. 72180/- towards General Insurance has been paid to the Applicant on 01/10/2012 respectively. Similarly, a sum of Rs. 29688/- towards General Provident Fund has been paid by these Respondents to the Applicant on 01/06/2012 for Monetary Benefits of amount. The copy of details of pensionary Benefits given to the Applicant and other Benefits is annexed herewith and marked as Annexure R- II..”

4. The Respondent Nos.1 to 3 have filed an affidavit dated 20/06/2023. They have stated that the enquiry is at final stage.

“11. It is submitted that, initially the departmental enquiry has been proceeded against the present

applicant and the memorandum of departmental enquiry has been duly served upon the applicants. The charges framed against the applicant are of serious nature. The said departmental enquiry is in process. It is at final stage now and the report of enquiry is expected very soon from the enquiry officer. As soon as the respondent authorities receives the enquiry report subsequent actions on it will be taken at the earliest.”

5. The Learned counsel for the applicant has filed copy of the order of this Tribunal in O.A. No.72/2021 dated 23/11/2022 in a similar matter. The order of the Tribunal is based on the principles laid down in the **Premnath Bali vs Registrar High Court of Delhi and another AIR 2016 SCC 101.** The material portion of the Hon’ble Supreme Court order is as follows:

“33) Keeping these factors in mind, we are of the considered opinion that every employer (whether State or private) must make sincere endeavour to conclude the departmental inquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time frame then efforts should be made to conclude within reasonably extended period depending upon the cause and the nature of inquiry but not more than a year.”

This Tribunal has quashed enquiry in this matter due to prolonged delay in completion of the enquiry.

6. The Learned counsel for the applicant has filed a copy of the order of the Hon'ble Bombay High Court, Bench at Nagpur dated 19/03/2024 in W.P. No.4434/2023. The Respondents had challenged the order by this Tribunal in O.A. No.72/2021. The Hon'ble High Court dismissed the Petition filed by the respondents.

7. The Vidarbha Package was implemented during 2007 to 2010 by the Applicant when he was posted as the Taluka Agriculture Officer. For some alleged irregularities, the Respondent No.2 had issued a charge-sheet on 22/07/2011. The applicant has filed this application in 2022. The Respondents have taken no efforts to conclude this enquiry and the enquiry is pending since 2011. In view of the principles laid down by the Hon'ble Supreme Court as discussed in Para 5 of this order, we pass the following order:-

O R D E R

- (i) The D.E. proceedings initiated against the applicant by the charge-sheet dated 22/07/2011 are quashed and set aside.

(ii) The Respondents are directed to pay the Applicant remaining retiral benefits with interest as per relevant rules within a period of three months from the date of this order.

(iii) The O.A. is disposed of with no order as to costs.

(Nitin Gadre)
Member (A).

(Justice M.G.Giratkar)
Vice Chairman.

Dated :- 03/01/2025.
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 : 03/01/2025