

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.1155 OF 2023

DISTRICT : PUNE

Smt. Chhaya Suresh Khandekar,)
Age 50 years, Junior Clerk in Govt. Photo Registry,)
5 Finance Road, Opp. B.J. Medical Ladies Hostel,)
Pune-1 R/o Sahyadri Building, Near Ganesh Dairy,)
Manjari Bk. Pune)..Applicant

Versus

1. The Inspector General of Registration &)
Controller of Stamps, New Administrative Bldg.,)
Ground Floor, Opp. Council Hall, Pune-1)
2. The State of Maharashtra,)
Through Additional Chief Secretary,)
Revenue & Forest Department (Revenue),)
Mantralaya, Mumbai 400032)..Respondents

Shri A.V. Bandiwadekar – Advocate for the Applicant

Shri A.J. Chougule – Presenting Officer for the Respondents

CORAM : Smt. Medha Gadgil, Member (A)

RESERVED ON : 18th April, 2024

PRONOUNCED ON: 26th April, 2024

J U D G M E N T

1. The applicant who is working as Senior Clerk in the office of Joint Sub Registrar, Haveli, District Pune seeks implementation of the decision dated 20.5.2022 given by the Hon'ble Minister of State for Revenue in the statutory appeal of the applicant against the order of reversion dated 8.11.2021 passed by respondent no.1.

2. Ld. Advocate for the applicant pointed out that the applicant while working as Senior Clerk between 2015 and 28.2.2018 in the office of sub-Registrar, Haveli, District Pune was subjected to a Departmental Enquiry (DE) under Rule 8 of the MCS (Discipline & Appeal) Rules, 1979. Pursuant to the said enquiry, order of reversion was passed against the applicant on 8.11.2021 and she was reverted from the post of Senior Clerk to that of Junior Clerk. The applicant preferred a statutory appeal before the Hon'ble Minister of State for Revenue on 22.11.2021, who after giving hearing to the applicant passed order dated 20.5.2022 and set aside the impugned order dated 8.11.2021 passed by respondent no.1. He pointed out that the appeal of the applicant was allowed by Hon'ble Minister who not only quashed the order of punishment dated 8.11.2021 but also quashed the DE proceedings itself with directions to implement the said appellate order immediately. Ld. Advocate states that however the said order passed by the Hon'ble Minister of State for Revenue dated 20.5.2022 has not been implemented. Ld. Advocate pointed out that in similar matters of the colleagues of the applicant viz. Shri S.S. Pisal and Shri Sewlikar both Senior Clerk the decisions dated 7.4.2021 & 6.5.2021 rendered in appeals by the same Hon'ble Minister of State for Revenue, have been implemented by respondents no.1 & 2. He submits that this is a clear cut case of insubordination by flouting the appeal decision rendered by the higher authority. He therefore prays that the said order of

the Hon'ble Minister of State for Revenue be implemented and the applicant be granted all consequential service benefits.

3. Ld. PO relied on the affidavit in reply dated 30.10.2023 filed by Pravin Sharadchandra Deshpande, Joint District Registrar and Collector of Stamps, Pune Rural, Pune. He pointed out that the order of reversion was passed by respondent no.1 on 8.11.2021. He further pointed out that the applicant directly approached the Hon'ble Minister of State for Revenue on 10.5.2022. Paras 3.1 and 3.2 of the reply reads as under:

“3.1 Applicant has no cause of action and locus standi to approach this Hon'ble Tribunal as the proceeding in appeal conducted by Hon'ble Minister of State, Revenue is sub-judice on the issue of jurisdiction that raised by the administrative department at Government level and the same has been clarified by Law and Judiciary Department. Therefore, the question of compliance of order dated 20.5.2022 passed by Hon'ble Minister of State, Revenue does not survive.

3.2 It is submitted that the legal opinion by the Law and Judiciary Department in respect of question of jurisdiction of Hon'ble Minsiter of State, Revenue is as follows:

‘The Appellate Authority in the present case could be the Principal Secretary of Department as the orders are passed by the Inspector General of Registration and Controller of Stamps. Be it as it may. However, entire proceedings of Appeals that are conducted before the Hon'ble State Minister are without jurisdiction and as such void ab-initio, as stated by the Department.’.”

4. He further submitted that the said appeal needed to be conducted by the Additional Chief Secretary of the Department and the Hon'ble Minister of State for Revenue had no jurisdiction to proceed with the appeal provided under the MCS (Discipline & Appeal) Rules, 1979. He further pointed out that as per the MCS (Conduct) Rules, 1979 the applicant should have submitted his explanation to the memorandum issued by the respondent no.1. As per Rule 17(ii) the appeal lies only against the order imposing any of the penalties specified in Rule 5 of these rules whether made by the disciplinary authority or by any appellate authority or reviewing authority.

5. However, in the subsequent affidavit in reply dated 8.4.2024 filed by Pravin Sharadchandra Deshpande, Joint District Registrar and Collector of Stamps, Pune Rural, Pune it is stated in para 3 & 4 as under:

“3. Considering the above facts and circumstances respondent authority similar issue has been decided and informed to concern lower authority to implement the same. I say and submit that accordingly respondents are tendering following documents. The same may please be taken on record.

- (i) Copies of letter dated 22.3.2024.*
- (ii) Copies of order dated 26.5.2022.*
- (iii) Copies of letter dated 21.6.2023.*

4. Considering the facts mentioned above present OA deserves to be disposed off with suitable direction.”

6. I have considered the submissions of both the sides. In this case it is seen that the matter under challenge is the non-implementation of the order dated 20.5.2022 passed by the Hon'ble Minister of State for Revenue

in appeal. It is noted that the department has issued an order dated 22.3.2024 giving instructions to the respondent no.1 to implement the orders dated 26.5.2022 and 21.6.2023 passed by the Hon'ble Minister of State for Revenue in appeal filed by Shri Balaji D. Madsavar, Senior Clerk and Shri M.P. Choudhary, Sub-Registrar, Class-I respectively. Considering the fact that similar orders passed by Hon'ble Minister of State for Revenue have been implemented by the respondents, the respondents should also implement the same in the present case. Hence, I proceed to pass the following order.

7. The Original Application is allowed. The respondents are directed to implement the order dated 20.5.2022 passed by the Hon'ble Minister of State for Revenue in the statutory appeal of the applicant with all consequential service benefits within a period of fifteen days from today. No order as to costs.

Sd/-
(Medha Gadgil)
Member (A)
26.4.2024

Dictation taken by: S.G. Jawalkar.