

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 144/2023(D.B.)**

Dr.Rajni Surajsingh Pawar,
Aged about: 64 years, Occ.: Retired,
R/o Gopalkrishna Residency,
Gajrajnagar, Amravati.

Applicant.

Versus

1. The Hon'ble Governor of Maharashtra,
Through its Chief Secretary,
Raj Bhavan, Walkeshwar road,
Malabar Hill, Mumbai - 400035.
2. The State of Maharashtra,
Through its Principal Secretary,
Public Health Department,
Mantralaya, Mumbai.
3. Director of Health Services,
Room No. 110, 1st Floor, Mantralaya.
Mumbai-400032, Maharashtra.
4. Deputy Director of Health Services,
Akola circle, New Radhakisan Plots,
Akola, Maharashtra 444001, India.

Respondents.

Smt.A.D.Kolhe, Ld. Counsel for the applicant.
ShriA.P.Potnis, Ld. P.O. for the respondents.

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

Dated: - 12th November, 2024.

JUDGMENT

Heard Smt.A.D.Kolhe, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the Respondents.

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

The Petitioner was appointed as Medical Officer, in District Women Hospital, Amravati. Thereafter, she was promoted as Medical Superintendent. There was purchase of various items for the District Women Hospital, Amravati. The applicant was not responsible Officer for any misappropriation. Even though, the departmental enquiry was held against the applicant along with other Officers namely Baliram Ramteke and others. The Enquiry Officer specifically held that applicant was not responsible for misappropriation. The responsible Officers were the Civil Surgeon and the Deputy Director of Health. The PLA account was managed by the Civil Surgeon. Therefore, the Enquiry Officer reported that charges against the applicant and others are not proved. Without considering the enquiry report the applicant is punished by the Disciplinary Authority by deducting two-third pension. Hence, the applicant has approached to this Tribunal for the following reliefs-

- I. *allow the instant original application and thereby quash and set aside the impugned order 22/08/2022 (ANNEXURE-I), passed by the Non-Applicant no.1 Hon'ble Governor of Maharashtra, thereby dismissing the appeal dated 15/03/2019 preferred by the Applicant U/R 21(1) and (2) of the MCSDA Rules, 1979, and upholding the order dated 18/01/2019 passed by the Non-Applicant no.2, thereby granting punishment of 2/3rd deduction of total pension amount;*
- II. *allow the present original application and thereby quash and set aside the impugned order 18/01/2019 (ANNEXURE-II), passed by the Non-Applicant no.2, Government of Maharashtra, Public Health Department, thereby granting punishment of deducting 2/3rd pension amount of the Applicant;*
- III. *direct the Non-Applicant no.1 to pay the amount deducted towards punishment along with the accrued interest;*
- IV. *during the pendency of the present original application stay the effect and operation of the impugned order dated 22/08/2022 and thereby bar the Non-Applicant no.2 from deducting the punishment amount;*
- V. *grant ad-interim exparte stay in terms of prayer clause (IV);*
- VI. *grant any other appropriate relief in form of substantive or ancillary relief that this Hon'ble court may deem fit in the interest of Justice.*

3. The O.A. is strongly opposed by the respondents. It is submitted that the applicant has committed misappropriation. She is the responsible officer of the Hospital and therefore the O.A. is liable to be dismissed.

4. This Tribunal has decided O.A.No.149/2020 on 25.09.2024. The similar charges were levelled against Shri Baliram

Ramteke. The applicant was one of the delinquent employee in the enquiry. The Enquiry Officer has recorded its findings that material charges are not proved against the applicant. It was observed that one charge is partially proved stating that applicant could have pointed out to the Superior Officer about the high prices of the commodities / medicines purchased by the Hospital.

5. We have recorded findings in O.A.No.149/2020 holding that the respondents have wrongly punished the applicant namely Shri Ramteke. The applicant is similarly situated employee as like Shri Ramteke. The applicant was not having any authority. The PLA account was managed by the Civil Surgeon. He was the Head of the Women Hospital. No action was taken by the respondents against the Civil Surgeon. The material portion of the Judgment in Para 13 is reproduced below-

13. From the above discussion, it is clear that the applicant was working as Administrative Officer. It was not his duty to fix or verify the rates of items to be purchased. As per the guidelines, it is the duty of the Civil Surgeon to fix the rates. The PLA account was to be managed by the Civil Surgeon, who heads the Institution. No action was taken by the respondents against the Civil Surgeon, Superintendent and the Deputy Director of Health. The Inquiry Officer has clearly recorded its findings that charges in respect of misappropriation etc. are not proved against the applicant. Even though, the applicant is punished. The punishment order does not show any specific reason for not accepting the inquiry report. In the inquiry report, the Inquiry

Officer has recorded its findings that the applicant might be negligent, but he was not responsible for the illegalities / misappropriation etc.

6. The applicant and Shri Ramteke both were not the responsible persons. The Civil Surgeon and the Deputy Director of Health were responsible for the irregularities, but they were not punished by the respondents. Hence, the applicant is entitled for the similar relief as like Shri Baliram Ramteke in O.A.No.149/2020. Therefore, we proceed to pass the following order-

ORDER

1. The O.A. is allowed as prayed.
2. The impugned order dated 18.01.2019 and 22.08.2022 are quashed and set aside.
3. The respondents are directed to pay all consequential benefits to the applicant within a period of four months from the date of receipt of this order.
4. No order as to costs.

(NitinGadre)
Member(A)

(Justice M.G.Giratkar)
Vice Chairman

Dated – 12/11/2024.

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 Vice Chairman
&Hon'ble Member (A).
Judgment signed on : 12/11/2024.
and pronounced on
