

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 40/2023(S.B.)**

Narendra S/o Govindrao Wakade,  
Age 65 years, Occ: Retired,  
R/o 133-A, Pawanbhumi, Somalwada,  
Wardha road, NAGPUR-15.

**Applicant.**

**Versus**

1. State of Maharashtra,  
through its Secretary,  
Agriculture & Horticulture Department,  
Mantralaya, MUMBAI, 32.
2. Hon'ble Chief Secretary,  
Government of Maharashtra,  
Mantralaya MUMBAI-32.
3. Divisional Joint Director of Agriculture,  
Kokan Division, Thane-04.

**Respondents.**

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Shri B.Kulkarni, Ld. Counsel for the applicant.  
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

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**Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.**

**Dated: - 21<sup>st</sup> June, 2024.**

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### **JUDGMENT**

Heard Shri B.Kulkarni, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the Respondents.

2. Case of the applicant in short is as under-

The applicant was working as Project Director in Agricultural Department. The applicant is retired after completing the age of superannuation on 30.09.2015. One lady employee was working in the office of applicant. She was given show cause notice by the applicant. The said lady employee made complaint of sexual harassment. On her complaint, offence Punishable under Section 354 of the I.P.C. was registered against the applicant.

3. The respondents have initiated the departmental enquiry. In the departmental enquiry, the respondent no.1, i.e., the Government of Maharashtra observed that the applicant is guilty for the misconduct /misbehaviour with lady employee. The proposal was sent to the Maharashtra Public Service Commission for approval of the punishment.

4. The respondent no.1 awarded punishment of 30% deduction from his pay / pension permanently. Thereafter, applicant approached to the Governor of Maharashtra State. As per order dated 27.09.2021, the Governor of Maharashtra State allowed

the appeal partly and reduced the punishment awarded by respondent no.1. Instead of 30% deduction from the monthly pension, 15% deduction is directed from the monthly pension from the date of the order i.e. from 27.09.2021. Hence, the applicant approached to this Tribunal for the following reliefs-

***[I.] Quash and set aside the order passed in appeal dated 27/09/2021 and passed by R.No.1 dated 21/01/2021 at Annexure A-1 and A-3. Both order may be declared illegal and bad in law and set aside at once.***

***[II.] The applicant may be granted full pensionary benefits without any cut/deduction from monthly pension.***

***[III.] Direct the respondents to release the gratuity and refund the pension recovery made till date.***

***[IV.] Any other relief court may deem fit in the circumstances in the case in the interest of justice.***

3. The learned counsel for the applicant has pointed out Judgment of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.10573/2015, decided on 06.02.2024. The Hon'ble High Court has held that if the witnesses who were examined in the departmental enquiry were the witnesses before the Criminal Court. If the Criminal Court acquits accused, the said Judgment can certainly be considered in adjudication of the Disciplinary Proceedings as per the Judgment of the Hon'ble Supreme Court in the case of **Ram Lal Vs. State of Rajasthan.**

4. The learned counsel for the applicant has submitted that the charges levelled against the applicant were not proved before the Criminal Court. Though, the applicant was convicted by the Trial Court. In the appeal, it is observed that the evidence of complainant was not reliable. She has made complaint because show cause notice was issued by the applicant. Applicant is acquitted by the Sessions Court. Hence, the Judgment of the Sessions Court in Criminal Appeal No.607/2010, decided on 02.05.2016 is certainly be considered while deciding the departmental enquiry. The respondents have not considered Judgment of the Criminal Court. The Governor of Maharashtra State has considered the Judgment, but the applicant is not exonerated from the charges levelled against him, only appeal is partly allowed. Hence, in view of the Judgment of the Hon'ble Bombay High Court, the applicant is entitled to get the relief.

5. The learned P.O. submits that the procedure in departmental enquiry is all together different. Hence, the Judgment of the Criminal Court is not relevant. The charges levelled against the applicant are proved in the departmental enquiry. The applicant was rightly held guilty. Hence, the O.A. is liable to be dismissed.

6. The complaint was made by one of the lady employee against the applicant stating that applicant misbehaved with her,

applicant outraged her modest. On her report, offence Punishable under Section 354 of the I.P.C. was registered. The learned Judicial Magistrate First Class (J.M.F.C.), Katol convicted the applicant for the offence punishable under Section 354 of the I.P.C. Thereafter, the applicant has filed appeal before the Sessions Judge, Nagpur in Criminal appeal No.19/2016, dated 04.05.2019. The applicant was acquitted from all the charges levelled against him.

7. The Additional Sessions Judge, Nagpur in para 20 has held as under-

*20] It is an admitted fact on record that the complainant has applied for transfer from Katol to Nagpur in the year 2008, however, her application was not considered. Similarly, prior to incident, the complainant has moved application for transfer on three occasions, however the same were not approved. It is also an admitted fact on record that on 28.08.2008, Revenue Inspector of Agricultural Office, Metpanjara has issued a memo that the complainant used to join office belatedly and shall used to remain absent for about two hours on daily basis. It is also conceded by the complainant that on 26.11.2008, Taluka Agricultural Officer of Katol issued a show cause notice and called upon the complainant to furnish explanation why the administrative action shall not be initiated against her as she did not improve even after the memo dated 28.08.2008 was issued. It is also brought on record that in the month of May 2010, as per the order passed by Commissioner of Agricultural, a letter was issued by Taluka Agricultural Officer, Katol and the complainant came to be relieved from the office of Katol and was directed to hand over the charge to one Mr.Raut. The*

*complainant has conceded that prior to lodging complaint at police station, whatever the letters or notices were received by her from her office were not under the signatures of the accused and it were issued under the signature of immediate superior officer who was working under the control of accused. It is an admitted fact on record that even after the application for request transfer submitted through accused, but complainant did not get transferred.*

8. From the perusal of Judgment of the Additional Sessions Judge, it is clear that the applicant was working in the office of Taluka Agricultural Officer, Katol. Applicant was the Superior Officer. Applicant had issued Show cause notice to the complainant lady employee. After the show cause notice issued by the applicant, lady employee i.e. the complainant was relieved from the office of Katol and was directed to handover the charge to one Mr.Raut. It is held by the Sessions Court that allegation made by the lady employee is after thought she had not taken any prompt action of lodging report etc.. In para 38 of the Judgment, the Additional Sessions Judge, Nagpur has held as under-

*38] I have already observed in foregoing paras that the testimony of complainant does not appear to be trustworthy inspiring confidence to the judicious mind. Therefore, having considered the circumstances of belated lodging FIR, passive conduct on the part of complainant and her husband of not raising any grievance against the acts on the part of accused on the day of incident and on the next day of incident entertaining*

*the accused at her residence on 18.12.2009 and non production of any complaint allegedly made by the complainant with her Superior Officer, inclines me to hold that the evidence of prosecution witnesses including the complainant and alleged residents of the same building Maya Jaiswal (P.W.3) and Shubham Jaiswal (P.W.4) are not worthy of credence to establish the alleged overt act of using criminal force to outrage the modesty of complainant so as to bring the conduct within parameters of section 448 and 354 of IPC.*

9. As per observation of the Additional Sessions Judge in the appeal, it is clear that the complaint was lodged by the lady employee only because she was issued show cause notice and thereafter she was transferred from Katol. Therefore, the Sessions Judge come to the conclusion that guilt of the accused not proved, therefore, the applicant / accused was acquitted for the offence of punishable under Section 354 of the I.P.C. The said witness examined was before the Enquiry Officer. Respondent no.1 awarded the punishment of 30% deduction from his monthly salary /pension. In the appeal, the Government of Maharashtra has reduced the said amount from 30% to 15%.

10. In view of the Judgment of the Hon'ble Supreme Court in the case of **Ramlal Vs. the State of Rajasthan**, the Judgment of Criminal Court should have been considered by the respondents. If the Judgment of Sessions Judge in appeal is considered, then it is

clear that the complaint was lodged by lady employee because her conduct was not good, she had not done her work properly and therefore she was given show cause notice by the applicant. The charges which were before the Enquiry Officer, same charges were before the Criminal Court. The charges are not proved by the respondents/State. Therefore, in view of the Judgment of Sessions Judge in Criminal Appeal, the applicant should have been exonerated of the charges levelled against him in the departmental enquiry. Hence, the order passed by the respondents awarding punishment is liable to be quashed and set aside. Hence, the following order is passed-

### **ORDER**

1. The O.A. is allowed.
2. The order passed in appeal dated 27.09.2021 and order passed by the respondent no.1 dated 21.01.2021 are hereby quashed and set aside.
3. The respondents are directed to pay all the pension and pensionary benefits to the applicant. The amount if deducted by the respondents shall be refunded to the applicant within a period of six months from the date of receipt of this order.



3. No order as to costs.

**(Justice M.G.Giratkar)**  
**Vice Chairman**

**Dated – 21/06/2024.**  
**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 Vice Chairman.  
Judgment signed on : 21/06/2024.

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