

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 667/2023(D.B.)**

Dilip Shrirang Tayade,
aged 64 years, Occupation: Retired,
Government servant (Range Forest Officer),
R/o Tapadiya Nagar, C/o Tayade Bhawan, Akola-444005
E-mail: diliptayade10@gmail.com.

Applicant.

Versus

1. State of Maharashtra,
Through the Principal Secretary,
Department of Revenue & Forest,
Mantralaya, Mumbai-32.
2. Chief Conservator of Forest,
Near Zilla Parishad,
Opposite District Court, Amravati.
3. Divisional Forest Officer,
(earlier known as Deputy Director),
Social Forestry Division, Akola,
Kacia Park, Ramdaspath, Akola.
4. Divisional Forest Officer (Wildlife),
Station Road, opposite Court building, Akola.
5. Regional Departmental Enquiry Officer,
Amravati Division, Office of Divisional Commissioner,
bypass Road, Camp, Amravati.

Respondents.

Shri A.C.Dharmadhikari, Ld. Counsel for the applicant.
Shri A.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:- 30th September, 2024.

JUDGMENT

Heard Shri A.C.Dharmadhikari, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the respondents.

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

The applicant was appointed on the post of Assistant Plantation officer as per order dated 09.02.1984. Thereafter, he was promoted on the post of Range Forest Officer as per order dated 17.07.2007. The applicant retired from the post of Range Forest Officer on 28.02.2017. After the retirement on the next date, the respondents have issued charge sheet on 01.03.2017.

3. The respondents are not paying pension and pensionary benefits because of the pendency of departmental enquiry. Therefore, the applicant has approached to this Tribunal for the following reliefs-

i) *By suitable order or direction hold and declare that initiation of the departmental enquiry is arbitrary. illegal, in contravention of the rules of 1982 and by declaring so quash and set aside the chargesheet at "Annexure-A-2" and consequently release the permanent pension including the gratuity along all consequential reliefs with interest from the date of superannuation till the date of its actual realization in the interest of justice;*

ii) *Restrain the respondents from publishing the report of the chargesheet at Annexure-A-2 and further restrain them to take any steps in furtherance to the enquiry proceedings, in the interest of justice;*

iii) *Allow this application;*

iv) *Grant any other or further relief as may be deemed fit and proper in the facts and circumstances of the present case.*

10. INTERIM ORDER, IF ANY:

1. *During the pendency and final disposal of the original application, restrain the respondents to publish the report on chargesheet at annexure and restrain them to take any steps in furtherance to the enquiry proceedings, in the interest of justice.*

2. *Grant ad-interim relief and interim relief in terms of clause 1 above, or grant any other interim relief/ direction in the interest of justice.*

4. Reply is not filed by the respondents. This Tribunal has specifically directed the respondents to complete the departmental enquiry before the next date as per order dated 03.09.2024. The said order is reproduced below-

2. The learned counsel for applicant submitted that on the day of retirement, the respondents have issued charge sheet to the applicant. Till date the respondents have not completed the departmental inquiry. It is pending since 2017. As per his submission, departmental inquiry cannot be continued more than one year.

3. The respondents are directed to complete departmental inquiry before the next date. If the respondents failed to decide the departmental inquiry before the next date, the O.A. will be heard finally.

5. The O.A. was fixed on 27.09.2024. On that day also P.O. seeks time to file reply. The learned P.O. has submitted that applicant

has committed misconduct and therefore departmental enquiry is initiated and it is pending.

6. During the course of submission, the learned counsel for the applicant has pointed out charge sheet dated 28.02.2017. As per his submission, minor charges are levelled against the applicant. The respondents are not completing the departmental enquiry even after specific direction of this Tribunal. Therefore, prayed to quash and set aside the departmental enquiry pending against the applicant. In support of his submission pointed out the decision of this Tribunal in O.A.No.699/2022. The learned counsel for the applicant has also pointed out the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.7068/2023 decided on 19.10.2023.

7. The learned counsel for the applicant has pointed out G.R. issued by the Revenue and Forest Department dated 18.04.2023. At last submitted that in view of the Judgment of Hon'ble Supreme Court in the case of **Prem Nath Bali Vs. Registrar, High Court of Delhi &Anr., decided on 16.12.2015**, the Judgment of this Tribunal in O.A.No.699/2023 and the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in W.P.No.7068/2023 decided on 19.10.2023, O.A. be allowed.

8. The learned P.O. has strongly objected to allow the prayer. The learned P.O. has submitted that without completing the departmental enquiry, the applicant cannot get pension and

pensionary benefits as per provisions of Section 27 of the Maharashtra Civil Services (Pension) Rules, 1982. At last submitted that the O.A. be dismissed.

9. There is no dispute that the applicant is retired employee. On the next day of retirement, the charge sheet is served to the applicant. From the perusal of the charge sheet, it appears that minor charges / misconducts are alleged against the applicant. Material charges as per the charge sheet are as under-

श्री डि.एस.तायडे, सामाजीक वनीकरण परिक्षेत्र अकोला (तत्कालीन) यांचे विरुद्ध महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ चे कलम ०८ अंतर्गत ठेवण्यात आलेल्या दोषारोप प्रपत्रामधील आरोपांचे सविस्तर विवरण

दोषारोप क्रं.१ शासकिय कामामध्ये दिरंगाई करणे:-

१. लागवड अधिकारी अकोला यांचे पत्र क्रमांक/३६८/२०१६-१७ दिनांक १२/०९/२०१६ नूसार कळविले की, श्री.डि.एस.तायडे, लागवड अधिकारी अकोला (तत्कालीन) यांनी रस्ता दुतर्फा लागवड नाविन्यपूर्ण योजनेअंतर्गत घेण्यात आलेल्या रोपवनातील खड्ड्यांची पुर्नभरणही गाळाच्या मातीने/काळ्या मातीने न करता खडक व मुरुमाने भरणे केलेली आहे. तसेच वेळेवर मरगळ भरण्यात आलेली नाही.

२. तसेच मग्राहोहयो अंतर्गत सन २०१५-१६ चे अंकेक्षण करीता नियुक्त सनदी लेखापाल यांना परिक्षणाकरीता अभिलेख वेळोवेळी सांगण्यात येवून सुध्दा सादर केले नाही.

दोषारोप क्रं.२ - अपुर्णरित्या कार्यभार हस्तांतरीत करणे:-

श्री.डि.एस.तायडे, लागवड अधिकारी अकोला (तत्कालीन) यांची मुख्यवनसंरक्षक प्रा.यवतमाळ यांचे आदेश क्रमांक ८६ दिनांक १३/७/२०१६ नुसार वनक्षेत्रपाल (वन्यजीव) बुलढाणा या पदावर बदली करण्यात आली होती. तदनुसार त्यांना उपसंचालक, सा.व.वि.अकोला यांचे पत्र क्रमांक/आस्था-अ/३३१/२०१६-१७ दिनांक

१६/०७/२०१६ नुसार श्री.ऐ.यु.पठाण यांना संपुर्णपणे कार्यभार हस्तांतरण करणे आवश्यक होते. मात्र लागवड अधिकारी अकोला यांचे पत्र क्रमांक /३६८/२०१६-१७ दिनांक १२/०९/२०१६ नुसार कळविले की, श्री.डि.एस.तायडे, लागवड अधिकारी अकोला (तत्कालीन) यांनी कोणतेही चार्जलिस्ट व चार्जनोट तसेच मग्नारोहयोचा रोखलेखा पुस्तक न देता फक्त कार्यभार हस्तांतरण प्रमाणपत्राद्वारे कार्यभार हस्तांतरीत केला.

दोषारोप क्र.३ दैनंदिनी सादर न करणे:-

श्री.डि.एस.तायडे, लागवड अधिकारी अकोला (तत्कालीन) यांनी सामाजीक वनीकरण विभागांतर्गत लागवड अधिकारी अकोला या पदावर दिनांक २२/०९/२०१२ रोजी रुजू झाल्यापासून दिनांक ३१/०७/२०१६ पर्यंतची दैनंदिनी सादर केलेली नाही.

10. As per charge no.1, the applicant has delayed work. As per charge no.2, the applicant has not handed over his complete charge. As per charge no.3, the applicant has not submitted the daily submissions. These are the minor charges levelled against the applicant.

11. The Hon'ble Supreme Court in the case of **Prem Nath Bali Vs. Registrar, High Court of Delhi &Anr., decided on 16.12.2015** has given direction that departmental enquiry is to be completed within a period of 6 months and in any event, it should be completed within one year. After the Judgment of Hon'ble Supreme Court in the case of **PremNath Bali Vs. Registrar, High Court of Delhi &Anr., decided on 16.12.2015**, The Revenue and Forest

Department has issued G.R. dated 18.04.2023. The material part of the G.R. is reproduced below-

क) महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ चे नियम ८ अंतर्गत कार्यवाही :-

- १) महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम १९७९ चे नियम ८ अंतर्गत दोषारोपपत्र बजावल्यानंतर कोणत्याही परिस्थितीत विभागीय चौकशी ६ महिन्यात संपुष्टात आणण्याची दक्षता शिस्तभंगविषयक प्राधिकारी / चौकशी प्राधिकारी यांनी घ्यावी.
- २) विभागीय चौकशी विहीत मुदतीत संपुष्टात आणणेकरीता **परिशिष्ट-अ** प्रमाणे कालबद्ध कार्यक्रम ठरवून देण्यात येत आहे.
- ३) काही प्रकरणांमध्ये उचित व पुरेशा कारणासाठी सहा महिन्याच्या विनिर्दिष्ट काळामध्ये विभागीय चौकशी पूर्ण करणे शक्य नसेल तर मुदतवाढीबाबत सामान्य प्रशासन विभाग, शासन परिपत्रक दिनांक ७ एप्रिल २००८ प्रमाणे कार्यवाही करावी.
- ४) विभागीय आयुक्त यांचे कार्यालयातील चौकशी अधिका-यांकडे प्रलंबित असलेल्या प्रकरणांची संख्या विचारात घेऊन प्रकरणी यथा शिघ्र निकालात काढण्याचे दृष्टीने कंत्राटी चौकशी अधिकारी यांचेकडे प्रकरण सोपविण्याबाबत निर्णय घेण्यात यावा.

परिशिष्ट-अ

महाराष्ट्र नागरीसेवा (शिस्त व अपील) नियम १९७९ चे नियम ८ अंतर्गत कार्यवाहीसाठी कालबद्ध

कार्यक्रम

अ. क्र.	तपशील	कालावधी
१.	निलंबित केले असल्यास दोषारोपपत्र बजावणे	९० दिवसांचेआत
२.	दोषारोपपत्र बजावल्यानंतर अपचारी यांचेकडून अभिवेदन प्राप्त करून घेणे	१०दिवस
३.	अपचारी यांनी आरोप कबुल न केल्यास चौकशी अधिकारी व सादरकर्ता अधिकारी यांची नियुक्ती करणे	१०दिवस
४.	विभागीय चौकशी अधिकारी यांनी चौकशी अहवाल सादर करणे	४महिने
५.	चौकशी अधिकारी यांचा अहवाल प्राप्त झाल्यानंतर त्यावरील निष्कर्षासहीत अपचारी यांना अभिवेदन सादर करण्यास कळविणे	१०दिवस
६.	चौकशी अहवालावर अपचारीयांचे अभिवेदन प्राप्त करून घेणे	१५दिवस

७.	चौकशी अहवाल, अपचा-याचे अभिवेदन विचारात घेऊन शिस्तभंगविषयक प्राधिका-याने निर्णय घेणे / जबर शिक्षेचा प्रस्ताव नियुक्ती प्राधिका-यास पाठविणे.	१५दिवस
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12. The applicant is facing departmental enquiry from the year 2017. He is getting only provisional pension. The respondents are not completing the departmental enquiry nor paying pension and pensionary benefits because of the pendency of departmental enquiry, in view of provisions of Rule 27 of the M.C.S. (Pension) Rules, 1982.

13. This Tribunal in O.A.No.699/2022 decided on 09.07.2024 quashed and set aside the departmental enquiry relying on the Judgment of Hon'ble Supreme Court in the case of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Anr., decided on 16.12.2015** and the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.7068/2023 decided on 19.10.2023. The material part of the Judgment of this Tribunal in O.A.No.699/2022 in para nos.17, 18, 19 and 20 are reproduced below-

17. *The learned counsel for applicant has pointed out the decision of the Hon'ble Bombay High Court, Bench at Nagpur in W.P. No.7068/2023, decided on 19/10/2023. The Hon'ble High Court in para-14 & 15 held as under –*

“ (14) The delay in conducting the enquiry which has occurred in this case has naturally caused sufferings to the respondent who retired way back on 31st August, 2015. As held by the Hon'ble Supreme Court in the case of Prem Nath Bali (supra), it is the duty of the employer to ensure that the departmental enquiry initiated against a delinquent employee is conducted within the shortest possible time by

taking priority measures. Such observations of the Hon'ble Supreme Court assume more significance in case the departmental proceedings are to be drawn against a retired employee, that too, for enquiring into the allegations which are not so grave rather are minor in nature.

15. For the aforesaid reasons, we do not find any good ground to interfere with the judgment passed by the Tribunal, which is under challenge in this writ petition.

18. In W.P. 3656/2021, the Hon'ble Bombay High Court, Bench at Nagpur has held in para-6 as under – “(6) The learned Assistant Government Pleader has filed the reply and opposed the application stating that the order passed by the Maharashtra Administrative Tribunal is without jurisdiction as the petitioner is transferred to Nashik and the Enquiry Officer from the Regional Departmental Enquiry Office, Nashik had conducted and completed the departmental enquiry. The petitioner would not have invoked the jurisdiction of the Administrative Tribunal at Nagpur. In the affidavit, respondent No.2 has stated that the enquiry is conducted in the stipulated time and submitted detailed enquiry report on 06.11.2020 to the respondent No.1 and has supported the order passed by the learned Maharashtra Administrative Tribunal on 19/07/2021.”

19. The learned P.O. has pointed out the Judgment in O.A.No.740/2018. Relying on the decision of the Hon'ble Supreme Court in the case of State of M.P. and Ano. Vs. Akhilesh Jha and Ano., 2022 (1) Mh.L.J.,557, this Tribunal has directed to decide the inquiry expeditiously. The said orders were already passed by this Tribunal on 16/01/2024 and 19/01/2024. Those orders are reproduced above. It appears that the respondents are not following the direction of this Tribunal. They are not taking any final decision. Hence, cited decision in O.A.No.740/2018 is not applicable. Another Judgment of C.A.T. in O.A.No.2464/2016 is also on the same footing.

20. The Judgment of the Hon'ble Supreme Court in the case of Prem Nath Bali Vs. Registrar, High Court of Delhi, AIR 2016 SC 101 is considered in Writ Petition No.7068/2023. As per the Judgment of the Hon'ble Supreme Court in the case of Prem Nath Bali Vs. Registrar, High Court of Delhi (cited supra), it is clear that the employer shall

complete the departmental inquiry within six months and outer limit is given one year. The respondents are keeping the departmental inquiry pending against the applicant since last 13 years. The letter sent to the C.P.O. dated 19/01/2024 clearly shows that till date respondent no.1 has not submitted any proposal to the M.P.S.C. for approval. Therefore, it is clear that the respondents are lingering the departmental inquiry only to harass the applicant. Hence, in view of the Judgment of the Hon'ble High Court in the above referred Writ Petitions, it is clear that the departmental inquiry needs to be quashed and set aside. Hence, we pass the following order –

ORDER

- (i) The O.A. is allowed.*
- (ii) The departmental inquiry initiated vide office memorandum / charge sheet dated 22/08/2013, is hereby quashed and set aside.*
- (iii) The respondents are directed to release the full pension and pensionary benefits to the applicant within a period of three months from the date of receipt of this order.*
- (iv) No order as to costs.*

14. The applicant is facing departmental enquiry since 2017 the minor charges are levelled against the applicant. The respondents are not completing departmental enquiry. It appears that the respondents are intentionally delaying the departmental enquiry so as to deprive the applicant to get the pension and pensionary benefits. Hence, in view of the Judgment cited above, we proceed to pass the following order-

ORDER

1. The O.A. is allowed.

2. The departmental enquiry initiated by the respondents as per charge sheet dated 28.02.2017 is hereby quashed and set aside.
3. The respondents are directed to release pension and pensionary benefits to the applicant within a period of three months from the date of receipt of this order.
4. No order as to costs.

(Nitin Gadre)
Member(A)

(Justice M.G.Giratkar)
Vice Chairman

Dated – 30/09/2024.
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
& Hon'ble Member (A).
Judgment signed on : 30/09/2024.
and pronounced on
