

**IN THE HIGH COURT OF JUDICATURE
AT BOMBAY**

BENCH AT AURANGABAD.

WRIT PETITION NO.3733 OF 2017

The State of Maharashtra
and others. ... Petitioners.

Versus

Dnyanoba Kondiba Ovhal ... Respondent.

...
Mr.D.R.Kale, A.G.P. for the Petitioners.
Dr.Supriya L. Pansambal, advocate holding for
Mr.V.D.Gunale, advocate for the Respondent.
...

**CORAM : S.V.GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

Date : 08.08.2017.

PER COURT :

1. The order of the Tribunal is assailed by the State. The Tribunal in the impugned order has set aside the action of de novo inquiry.

2. Mr.Kale, learned A.G.P. submits that the Tribunal has not considered the provisions of the Maharashtra Civil Services Rules. The Tribunal has misread the provisions of Rule 9, so

also misinterpreted Rule 27 of the Maharashtra Civil Services (Pension) Rules. Rules 8 and 9 of the Maharashtra Civil Services (Discipline and Appeal) Rules 1979 permit de novo inquiry. The observation of the Tribunal that the disciplinary authority has not given details about the charges levelled is against the record. It is further submitted that Chapter 7 para 7.3 of the Manual of Departmental Inquiry, empowers the competent disciplinary authority to initiate de novo inquiry if there is serious irregularity or lapse in conducting the inquiry.

3. Learned counsel for Respondent submits that the procedure as laid down under Rule 8 and 9 was never followed. No show cause notice was issued to the Respondent by the disciplinary authority prior to the issuance of directions to initiate de novo inquiry. Even the inquiry as directed by the disciplinary authority was beyond the period of four years from the date of superannuation. The same is not permissible as per Rule 27 of the Maharashtra Civil Services (Pension) Rules. Learned counsel further submits

that though the Tribunal had passed the order setting aside de novo inquiry, however, the Inquiry Officer was appointed on 19.10.2015 and he conducted an inquiry. In his inquiry report he has exonerated the present Respondent.

4. We have considered the submissions. The Tribunal had considered that the procedure as laid down for directing de novo inquiry was not followed. It was observed that the disciplinary authority has to record his dissatisfaction and thereafter issue notice to the delinquent. In the present case, no such procedure was followed.

5. Be that as it may, the Inquiry Officer was appointed to conduct de novo inquiry. Inquiry report is submitted by the Inquiry Officer. It is found by the Inquiry Officer that all three charges levelled against the petitioner can not be proved and has in fact exonerated the petitioner as per the inquiry report dated 20.6.2017.

6. In light of the above, even de novo

inquiry has been conducted and the petitioner has been exonerated of all the charges in the inquiry report.

7. Considering above, the purpose of the Writ Petition does not survive. The Writ Petition as such is dismissed. No costs.

(MANGESH S. PATIL, J.)

(S.V.GANGAPURWALA, J.)

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