

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3611/2017

(DNYANENDRA PRALHADRAO MESHRA **VERSUS** THE COMMISSIONER, AMRAVATI MUNICIPAL CORPORATION, AMRAVATI)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri U.J. Deshpande, counsel for the petitioner.
Shri K.P. Mahalle, counsel for the respondent.

CORAM : SMT. VASANTI A NAIK AND
A.D. UPADHYE, JJ.

DATE : JANUARY 16, 2018.

By this writ petition, the petitioner challenges the charge-sheet dated 13.05.2016 and the departmental enquiry initiated against the petitioner by the respondent-Corporation in pursuance thereof.

The petitioner was the employee of the Amravati Municipal Corporation and a proposal by the petitioner for voluntary retirement was accepted by the corporation and he was allowed to voluntarily retire from service on 30.08.2015. According to the petitioner, almost nine months after his retirement, a departmental enquiry was initiated against the petitioner on the basis of a charge-sheet dated 13.05.2016. The charge-sheet as also the departmental enquiry is challenged by the petitioner in the instant petition.

It is stated on behalf of the petitioner that the Maharashtra Civil Services (Discipline and Appeal) Rules and the Maharashtra Civil Services (Pension) Rules are adopted by the Amravati Municipal Corporation and the provisions of the said rules would be applicable to the employees of the corporation. It is submitted that there is no

provision in the Maharashtra Civil Services (Discipline and Appeal) Rules for initiating a departmental enquiry against an employee after his retirement. It is stated that Rule 27 of the Maharashtra Civil Services (Pension) Rules, provides for initiation of a departmental enquiry after the retirement of an employee with the sanction of the State Government. It is stated that even as per the amended provisions of Rule 27, it would be necessary for the employer to seek the sanction of the appointing authority before initiating a departmental enquiry against a retired employee. It is stated that admittedly in this case, the sanction of the appointing authority was not sought before serving a charge-sheet on the petitioner and before initiating a departmental enquiry against him.

The learned counsel for the respondent fairly admits that the sanction of the appointing authority of the corporation was not secured before the departmental enquiry was initiated against the petitioner after he was voluntarily retired from service on 30.08.2015. It is stated that if this Court is of the view that the enquiry initiated against the petitioner would be vitiated on the said ground, the respondent-Corporation would secure the sanction of the appointing authority for initiating a departmental enquiry against the petitioner after his retirement as the charges levelled against the petitioner are grave and serious.

On hearing the learned counsel for the parties and on a perusal of Rule 27 of the Maharashtra Civil Services (Pension) Rules as also the judgment reported in **2009 (Supp.) BCR 942** (*Ratnakar Bhagwanrao Mahajan Versus District & Sessions Judge & Another*), it appears that it was not permissible for the respondent-Corporation to initiate a departmental enquiry against the petitioner after his retirement without seeking the sanction from the appointing authority. Admittedly, the respondent-Corporation has not sought

the sanction from the appointing authority before framing the charges against the petitioner and before initiating a departmental enquiry against him. Since the sanction of the appointing authority is a *sine qua non* for initiating the departmental enquiry against a retired employee, the charge-sheet and the departmental enquiry initiated against the petitioner are liable to be quashed and set aside.

Hence, for the reasons aforesaid, the writ petition is allowed. The charge-sheet dated 13.05.2016 is hereby quashed and set aside. The departmental enquiry initiated against the petitioner is also quashed and set aside. The respondent-Corporation is free to take appropriate steps in accordance with law.

Order accordingly. No costs.

JUDGE

JUDGE

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