



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition (WP) No. 4434 of 2023

State of Maharashtra and others

Versus

Dilip Vitthalrao Wandile

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.M.Joshi, AGP for the petitioner/State.

Ms. S.S.Dashputre, Advocate for the respondent

**CORAM : ANIL S. KILOR, AND
SMT. M.S.JAWALKAR, JJ.
DATED : 19th MARCH, 2024.**

Heard.

2. This writ petition takes exception to the judgment and order dated 23rd November, 2022 passed by the Maharashtra Administrative Tribunal, Nagpur in Original Application No. 73 of 2021 and thereby quashed and set aside the chargesheet dated 22nd July, 2011 and thereby held that the respondent stands exonerated of all the charges led against him. The petitioners were further directed to pay retiral benefits with interest to the respondent within two months from the receipt of the said order.

3. The brief facts of the present case are as under:

The respondent was serving under the petitioner no.3 as an agricultural supervisor. He was served with a chargesheet dated 22nd July, 2011, and he was put under suspension, which was later on revoked.

4. The respondent was superannuated on 30th April, 2014. However, the inquiry was going on and the retiral benefits were withheld due to it.

5. Therefore, the respondent approached to the learned Tribunal in the year 2021 for quashing the chargesheet dated 22nd July, 2011 on the ground of delay in completing the inquiry.

6. The learned Tribunal passed the impugned judgment dated 23rd November, 2022, allowing the original application and thereby setting aside the chargesheet dated 22nd July, 2011 and it is held that the respondent stand exonerated of all the charges. Hence, this petition.

7. Shri Joshi, learned counsel for the petitioner submits that the order impugned is cryptic, since no reasons are recorded to the effect that how the delay in concluding the inquiry has caused prejudiced to the respondent. It is submitted that the order is without

reasons and therefore it is liable to be quashed and set aside.

8. On the other hand, Ms. Dashputre, learned counsel for the respondent strongly opposed the present petition.

9. In light of rival contentions of the parties, I have perused the record and the impugned order.

10. The Hon'ble Supreme Court of India in the case of P.V.Mahadevan Vs. Md, T.N.Housing Board¹ has observed thus:

In the second case of N. Radhakishan, the respondent was appointed as Assistant Director of Town Planning in the year 1976. A report dated 7.11.1987 was sent by the Director General, Anti-Corruption Bureau, Andhra Pradesh, Hyderabad to the Secretary to the Government, Housing, Municipal Administration & Urban Development Department, Andhra Pradesh, Hyderabad, about the irregularities in deviations and unauthorized constructions in multi storied complexes in the twin cities of Hyderabad and Secunderabad in collusion with Municipal Authorities. On the basis of the report, the State issued two memos both dated 12.12.1987 in respect of three officials including the respondent-Radhakishan, the then Assistant City Planner. In this case, till 31.07.1995 the article of charges had not been served on the respondent. The Tribunal, however, held that the memo dated 31.7.1995 related to incidents that happened ten years of more prior to the date of the memo and that there was absolutely no explanation by the Government for this inordinate delay in framing the charges and

1 2005(6) SCC 636

conducting the enquiry against the respondent and that there was no justification on the part of the State now conducting the enquiry against the respondent in respect of the incidents at this late stage. This Court, in para 19, has observed as follows :

"It is not possible to lay down any predetermined principles applicable to all cases and in all situations where there is delay in concluding the disciplinary proceedings. Whether on that ground the disciplinary proceedings are to be terminated each case has to be examined on the facts and circumstances in that case. The essence of the matter is that the court has to take into consideration all the relevant factors and to balance and weigh them to determine if it is in the interest of clean and honest administration that the disciplinary proceedings should be allowed to terminate after delay particularly when the delay is abnormal and there is no explanation for the delay. The delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his part in delaying the proceedings. In considering whether the delay has vitiated the disciplinary proceedings the court has to consider the nature of charge, its complexity and on what account the delay has occurred. If the delay is unexplained prejudice to the delinquent employee is writ large on the face of it. It could also be seen as to how much the disciplinary authority is serious in pursuing the charges against its employee. It is the basic principle of administrative justice that an officer entrusted with a particular job has to perform his duties honestly, efficiently and in accordance with the rules. If he deviates from this path he is to suffer a penalty prescribed. Normally, disciplinary proceedings should be allowed to take their course as per relevant rules but

then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the court is to balance these two diverse considerations."

This Court held that there was hardly any explanation worth consideration as to why the delay occurred. In the circumstances, this Court held that the Tribunal was justified in quashing the charge memo dated 31.7.1995 and directing the State to promote the respondent as per recommendation of the DPC ignoring memos dated 27.10.1995 and 1.6.1996. Accordingly, the appeal filed by the State of Andhra Pradesh was dismissed.

11. In the matter at hand, the charge against the petitioner is that, he failed to ensure proper extension of benefits like Agricultural implements, tools, bullocks, bullock carts, manure etc. under package to economically weaker Agriculturists in the Vidarbha Region.

12. It is further evident that the petitioner was served with a chargesheet on 22nd July, 2011 and he was put under suspension. Subsequently, the suspension was revoked and he was reinstated. Thereafter, the petitioner got superannuated on 30th April, 2014 and even after the retirement of the petitioner, the departmental inquiry was continued against the petitioner.

13. It is pertinent to note that because of pendency of the departmental inquiry, the petitioner was not paid gratuity and pension but he was paid provisional pension.

14. The petitioner waited till the year 2021 i.e. for 10 years after issuance of chargesheet for completion of enquiry and thereafter filed the Original Application under Section 19 of the Administrative Tribunal Act, 1985 before the learned Maharashtra Administrative Tribunal seeking quashing and setting aside the chargesheet dated 22nd July, 2011. The said prayer came to be allowed vide the impugned judgment and order dated 22nd November, 2022.

15. It is pertinent to note the conduct of the petitioner-State that, despite the chargesheet was quashed and set aside by the learned Tribunal, the petitioners proceeded with the inquiry and completed the same.

16. Moreover, it is apparent that the respondent took 14 years to complete the inquiry. No reasons are assigned for delay in concluding the inquiry. No justifiable explanation or circumstances are brought on record which prevented the petitioner state to conclude the inquiry within a reasonable period.

17. An employee who retired in the year 2014 and to whom the gratuity has not been denied and similarly, the pension on the ground that the inquiry is pending, hence, if such inquiry takes years together for no reason and concludes after 13 or 14 years it definitely would cause prejudice to the employee. In the circumstances, the submission of the learned Assistant Government Pleader cannot be accepted that no prejudiced is caused to the respondent because of such delay cannot be accepted. Hence, the reliance placed by the learned Assistant Government Pleader on the judgment of the Hon'ble Supreme Court in the case of State of M.P. and another Vs. Akhilesh Zha and another² is of no help and assistance to the petitioner.

18. The learned Tribunal while allowing the application filed by the respondent has placed reliance of the Hon'ble the Supreme Court in the case of Premnath Bali Vs. Registrar High Court of Delhi and another³, wherein the Hon'ble Apex Court has observed that it is the duty of the employer to ensure that the departmental inquiry initiated against the delinquent employee is concluded within the shortest possible time by taking priority measures. It is further held that every employer must make sincere endeavor to conclude the

² 2022(1) Mh.L.J 557

³ AIR 2016 SCC 101

departmental inquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit.

19. In the present matter, the State has not come up with any justification or explanation for such a huge delay, during which period respondent was denied the gratuity and regular pension.

20. Even looking at the charge against the respondent, it cannot be said that to establish and prove such charge, a period of more than a reasonable period would be required in the inquiry.

21. In the circumstances, we do not find any merit in the present writ petition. Accordingly, it is dismissed.

[M.S.JAWALKAR, J.]

[ANIL S. KILOR, J.]