



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4938 OF 2019

PETITIONER: Dr. Suresh s/o Gulabchand Agrawal,
Aged about 65 years, Occu:
Ex. Government Servant, R/o Deep
Colony Ward No. 17. at Post and Taluka
Morshi, District Amravarti.

...V E R S U S...

RESPONDENT The State of Maharashtra,
Through its Secretary, Agriculture
Animal Husbandry, Dairy Development
and Fisheries Department having its
office at Mantalaya, Mumbai-400 032.

Shri N.R. Saboo, counsel for petitioner.
Shri H.D. Marathe, AGP for the respondent/State.

CORAM : ANIL S. KILOR AND RAJNISH R. VYAS, JJ.
DATE : 13/11/2025

ORAL JUDGMENT : (Per Anil S. Kilor, J)

1. **RULE.** Rule made returnable forthwith. Heard finally
by consent of learned Counsel for the respective parties.

2. The petitioner was working as a Livestock Development
Officer. While he was posted at the Veterinary Dispensary,

Panchayat Samiti, Nandgaon Khandeshwar, District Amravati, one cow and a calf belonging to Shri Tambaskar died due to an electric shock. Thereafter, petitioner performed the post-mortem examination of the cow and the calf.

3. It was alleged that the petitioner demanded Rs. 200/- for issuing the post-mortem report, and that the said amount was accepted on his behalf by Shri Suresh N. Bhitkar, who was working as a Livestock Supervisor. The Anti-Corruption Bureau, Amravati, caught Shri Bhitkar red-handed, and Special (ACB) Case No. 11/1991 was registered. After a full-fledged trial, the petitioner was given the benefit of doubt and was acquitted vide judgment dated 30/11/2005 by the learned Additional Sessions Judge, Special Judge, Amravati.

4. The acquittal of the petitioner was upheld by this Court vide judgment dated 15/07/2014 in Criminal Appeal No. 51/2006.

5. However, in the departmental inquiry, the petitioner was held guilty for the same charges as were in the criminal trial. The Inquiry Officer, in his report, therefore categorically observed that such findings were subject to the result of the criminal trial.

6. Despite acquittal of the petitioner, a punishment was imposed vide order dated 29/01/2008, dismissing the petitioner from service.

7. In the departmental appeal, though the appellate authority observed that it was not proved for what purpose the demand was made, and though it is recorded that the trial Court had acquitted the petitioner, the appeal was dismissed vide order dated 20/02/2016.

8. Thereupon, the petitioner preferred an Original Application before the Maharashtra Administrative Tribunal, which came to be rejected vide order dated 16/04/2019.

9. Having gone through the order of the Maharashtra Administrative Tribunal, it is apparent on the face of the order that the Original Application was rejected on the ground that the inquiry was not conducted in violation of the principals of natural justice, or it could not be said that the Inquiry Officer's findings were based on no evidence or the findings are perverse.

10. However, the learned Tribunal lost sight of the fact that the petitioner had been acquitted, and the appeal against the said

acquittal before this Court had also been dismissed.

11. The findings of the Inquiry Officer were made subject to the result of trial. Moreover, from the order of the appellate authority passed in the departmental appeal against the punishment imposed on the petitioner, it is evident that though it was held that the demand could not be proved, and though the purpose of such demand was not established, the appeal was dismissed.

12. In cases involving allegations of acceptance of bribe, unless the demand is proved, no punishment can be imposed, and the person cannot be held guilty.

13. The Hon'ble Supreme Court of India in the case of ***G.M. Tank Vs State of Gujarat and others reported in (2006) 5 SCC 446***, which held thus:-

“31 -In our opinion, such facts and evidence in the department as well as criminal proceedings were the same without there being any iota of difference, the appellant should succeed. The distinction which is usually proved between the departmental and criminal proceedings on the basis of the approach and burden of proof would not be applicable in the instant case. Though finding recorded in the domestic enquiry was found to be valid by the Courts below, when there was an honourable acquittal of the employee during the

pendency of the proceedings challenging the dismissal, the same requires to be taken note of and the decision in Paul Anthony's case will apply. We, therefore, hold that the appeal filed by the appellant deserves to be allowed."

14. Similarly, in the case of ***Ram Lal Vs State of Rajasthan and others reported in (2024) 1 SCC 175***, which held thus:-

"28. Expressions like "benefit of doubt" and "honourably acquitted", used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Ext. P-3, the original marksheet carries the date of birth as 21-4-1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The Court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used."

15. Thus, in view of the above well-settled legal position and considering the facts and circumstances of the present case, we have no hesitation in holding that the appellate authority, which dismissed the departmental appeal, as well as the learned Tribunal, which dismissed the Original Application of the petitioner, committed a grave error in upholding the punishment

of dismissal. Accordingly, we passed the following order:

ORDER

- A] The writ petition is **allowed**.
- B] The order of dismissal of the petitioner from service dated 29/01/2008 is hereby set aside consequently the order passed by the Maharashtra Administrative Tribunal, Nagpur Bench, Nagpur in Original Application No. 249/2016 dated 16/04/2019, the order passed in Departmental Appeal dated 20/02/2016, and the order dated 29/01/2008 passed by the Disciplinary Authority are hereby quashed and set aside.
- C] The petitioner shall be notionally reinstated in service and granted all benefits as if he retired in the regular course of service. The monetary benefits shall be released expeditiously, in any case within a period of eight months from today.
16. Rule is made absolute in above terms. No order as to costs. Pending Application(s), if any, stand(s) **disposed of**.

(RAJNISH R. VYAS, J.)

(ANIL S. KILOR, J.)