



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

WRIT PETITION NO. 3789 OF 2025

(Shree Manik Bhagwangi Maliye Vs. The District Malaria Officer, Wardha and ors)

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

Court's or Judge's orders

Mr. L.H Kothari, Advocate for petitioner.

Mr. P.P. Pendke, AGP for respondent Nos. 1 to 5/State.

CORAM : ANIL S. KILOR & RAJNISH R. VYAS, JJ.

DATED : 10-12-2025.

Heard Mr. Kothari, learned counsel for petitioner and Mr. Pendke, learned AGP for respondent Nos. 1 to 5/State.

2. Challenge in this petition is to the judgment dated 13.11.2014, passed in Original Application No. 513/2017, by Maharashtra Administrative Tribunal (MAT), Nagpur Bench, Nagpur by which the Original Application filed by petitioner was dismissed.

3. In short, it was a case of the respondent before the Tribunal that present petitioner had remained continuously absent from the year 1986 to 2015 and therefore, he was subjected to departmental enquiry. After completion of departmental enquiry, the services of the petitioner were terminated. Consequently, order of termination was challenged before the learned Tribunal by the petitioner.

4. Learned counsel for petitioner submits that there was undue delay in initiation of departmental enquiry. According to him, though the petitioner was absent from the year 1986 to 2015, there was no reason for initiation of departmental enquiry in the year 2015. He further submits that delay resulted into miscarriage of justice.

5. Per contra, learned AGP submits that the order passed by the Tribunal is just and proper and the length of period during which the petitioner was absent, clearly shows that the petitioner was not interested in rendering his services.

6. We have tested rival contentions of the parties and also gone through record of the case. It is undisputed fact that the petitioner was absent from 1986 to 2015. While conducting departmental enquiry, opportunity was given to the petitioner to put forward his case. In our view, long absence of petitioner clearly show that he was not interested in the employment. Learned Tribunal in paragraphs 5 and 6 of the impugned judgment has dealt with the entire issue and has dismissed the Original Application, which reads thus:

“5. There is no dispute that the applicant was appointed in the year 1984. The applicant remained absent from duty from the year 1986. There is no dispute that the applicant contested the election of Gram Panchayat, but he had no time to join his duty. The applicant was having ample time in the politics. The applicant was trying to pressurize the respondents by issuing hunger strike notice. This itself shows that the applicant is a political person and therefore he was not interested to join duty. He was pressurizing the respondents. This is clear by the notice issued by the respondents to start hunger strike.

6. There is no dispute that the applicant approached to Labour Court for direction to the respondents to allow him on duty. The applicant has not prosecuted his claim before the Labour Court. There is no dispute that the applicant had withdrawn all the proceedings before the Labour Court. The applicant was at liberty to contest all the proceedings before the Labour Court. The relief should have been given, if he was eligible for the same. The applicant now approached this Tribunal. Only contention of the applicant is that there is a huge delay in the departmental inquiry. The delay may be caused

*because of the political status of the applicant. The applicant was continuously absent from 1986 to 2015. The respondents have given ample opportunity to the applicant to join his duty. At last the respondents have initiated the departmental inquiry. Opportunity was given to the applicant in departmental inquiry. As per the judgment of the Hon'ble Supreme Court in case of **Union of India and Ors Vs. P. Gunasekaran, (2015)2 SCC 610** this Tribunal cannot interfere in the order passed by disciplinary authority. Therefore, the applicant cannot say that the departmental inquiry is belated. The cited judgments by the side of applicant are on different footing and not applicable to the case in hand”.*

7. Learned counsel for petitioner has relied upon the judgment in case of **State of Andhra Pradesh Vs. N. Radhakishan**, reported in **AIR 1998 SC 1833**, and in particular, on the following paragraph:

*“It is not possible to lay down any pre-determined 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 relevant factors and to balance and weight 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 delay is abnormal and there is no explanation for the delay.*

The law laid down by the Hon'ble Apex Court cannot be disputed but fact remains that in the interest of clean and honest administration, discharge of duty by the employee was of paramount importance. Learned counsel for petitioner further relied upon the case of **P.V. Mahadevan Vs. MD.T.N. Housing Board**, reported in **(2005)6 SCC 636**, which has also taken into consideration the judgment of N. **Radhakishan** (supra).

8. Learned counsel for petitioner has relied upon judgment in case of ***Roop Singh Negi Vs. Punjab National Bank and Ors***, reported in (2009)2 SCC 570, more particularly, paragraph 14, which reads thus:

“14. Indisputably, a departmental proceeding is a quasi judicial proceeding. The Enquiry Officer performs a quasi judicial function. The charges leveled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties.....”

The aforesaid principle of law is well established and in fact governs the issue involved in this case. The petitioner has given absolutely no justifiable reason for absence for such a long period and therefore, the findings given by the authorities cannot be said to be perverse. Learned counsel for petitioner in order to buttress his contention has also relied upon the judgment in case of ***Union of India and Others Vs. P. Gunasekaran***, reported in (2015) 2 SCC 610 and contended that the Court is required to interfere when there is perversity in the finding. He therefore, relies upon paragraph 12, which reads thus:

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge no. I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into re- appreciation of the evidence. The High Court can only see whether:

- a. the enquiry is held by a competent authority;*
- b. the enquiry is held according to the procedure prescribed in that behalf;*

- c. there is violation of the principles of natural justice in conducting the proceedings;*
- d. the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- e. the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- i. the finding of fact is based on no evidence.*

9. No doubt that while exercising power of judicial review, the Courts are required to take into consideration the aforesaid factors but fact remains that in case in hand, the petitioner has not pointed out any breach of which it can be said that there is a violation of principles of natural justice.

In view of the above discussion, we do not find any perversity or jurisdictional error in the order impugned and therefore, petition is liable to be dismissed and it is dismissed accordingly.

(RAJNISH R. VYAS, J)

(ANIL S. KILOR, J)