



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION No.3542 OF 2024

Ravindrakumar Manikrao Mawande,
Age:- 65 yrs, Occ:- Retired Servicemen,
R/o. "Gokul" Om Society,
behind Gramin Bank, Ambika Nagar,
Malkapur, Akola, Tq. Distt. Akola. : PETITIONER

...VERSUS...

1. State of Maharashtra,
Through Secretary,
Rural Development Department,
Bandhkam Bhavan, 25 Mezban Path,
Fort, Ballard Estate, Fort, Mumbai,
Maharashtra 400 001.
2. Mrs. B. Vaishnavi,
The Chief Executive Officer,
Zilla Parishad, Akola, Distt. Akola. : RESPONDENTS

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Mr. D.S. Patil, Advocates for Petitioner.
Ms. H.N. Jaipurkar, Assistant Government Pleader for Respondent No.1.
Mr. A.M. Tirukh, Advocate for Respondent No.2.

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CORAM : SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.

RESERVED ON : 25th MARCH, 2026.

PRONOUNCED ON : 07th APRIL, 2026.

JUDGMENT : (Per : NANDESH S. DESHPANDE, J.)

1. Rule. Rule is made returnable forthwith. Heard finally

by the consent of the Learned Counsel for the parties.

2. By the present petition, the petitioner seeks to quash and set aside the departmental enquiry initiated against him by the respondent No.2 - Chief Executive Officer, Zilla Parishad, Akola, vide memorandum of enquiry/charge-sheet dated 25.04.2011. The petitioner further seeks a direction to the respondent No.2 to release all retirement benefits along with interest of the petitioner.

3. The facts giving rise to the present petition are as follows :

(i) The petitioner was serving as a Sectional Engineer with the Respondent No. 2 - Zilla Parishad, Akola, and stood superannuated on 31.08.2018. It is the case of the petitioner that a departmental enquiry was initiated against him on the basis of a memorandum dated 25.04.2011. The allegations levied on such memorandum are as follows :

(a) Bill was submitted by the petitioner to the Executive Engineer without inquiry in the work of Ko. P. Kharbi Takli Airport -1/2, KO.P. Co. R. Bandhara Sasti-3, KO.P. Bandhara Charangaon, Ko. P. Bandhara Paras-1/2, Ko.P. Bandhara Jogalkhed-1/2, Co.P. Bandhara Balapur.

(b) Submission of false measurements.

(c) Submission of bills without obtaining the

administrative order.

(d) Misappropriation of amount by making false entry of work under Rural Employment Scheme.

(e) Breach of rules of discipline and appeal rules and disobedience of order of superior officers.

(ii) The petitioner submits that in pursuance of such memorandum, vide correspondence dated 18.05.2011, the petitioner requested for supply of necessary documents to file proper reply against the departmental enquiry. However, the respondent No.2, failed to supply the documents till date.

(iii) The petitioner is facing criminal prosecution in respect of charges levelled against him in the said departmental enquiry and the issue is pending before the Judicial Magistrate First Class, Patur. In pursuance of such charges, the petitioner was suspended from his services from 16.03.2009 to 27.05.2012 and later rejoined on 28.05.2012. It is submitted that in view of the pendency of the enquiry, the petitioner is only granted provisional pension vide communication dated 04.10.2012.

(iv) It is further submitted that, as per Rule 3.19 of the Departmental Enquiry Rules, 1991 (for short, "the Rules"), the

enquiry is required to be completed within a period of six months, extendable up to one year with prior approval of the competent authority. In the present case, more than 11 years have elapsed, yet no effective progress has been made in the enquiry.

(v) It is also submitted that the issue involved in the present petition with respect to whether departmental enquiry can be continued after prescribed period of six months or after extended limit of one year has been decided by the Hon'ble Apex Court in **Prem Nath Bali Vs. Registrar, High Court of Delhi and another reported in (2015) 16 SCC 415**. As per the judgment, prior approval of the superior authority is mandatory for extension of the time to conduct the departmental enquiry. Reliance is also placed on the judgment passed by this Court in **Writ Petition No.3182/2022 (Vasant Madhavrao Kulkarni vs. State of Maharashtra and other)**

(vi) In view of the aforesaid, the Petitioner seeks quashing and setting aside of the departmental enquiry initiated pursuant to the charge-sheet dated 25.04.2011, and further seeks a direction to the Respondent No. 2 to release all retiral benefits withheld by him.

4. On the contrary, learned Assistant Government Pleader

for the respondent No.1, denies the contention of the petitioner. It is his case that the Enquiry Officer is demanding the supply of relevant documents from the department, but the same is not supplied to him as the petitioner deliberately misplaced the relevant documents and entire record of 'Gramin Rojgar Yojana' Scheme.

5. It is further submitted that the said Enquiry Officer had also requested the Investigating Officer, appointed pursuant to the issuance of the charge-sheet, to supply copies of the said documents. However, even the said officer has failed to supply the required documents.

6. It is further submitted that the respondent No.2, Zilla Parishad, Akola vide letter dated 19.11.2013 requested the Divisional Commissioner, Amravati to initiate the departmental enquiry against the petitioner, however, the office of the Divisional Commissioner, Amravati, failed to initiate the departmental enquiry at the earliest. The respondent No.2 further requested the Divisional Commissioner to forward the status of the departmental enquiry vide letter dated 05.03.2014, 26.07.2018 and 19.03.2019, however, no response was communicated to the respondent No.2, by the officer of the Divisional Commissioner, Amravati.

7. We have heard Mr. D.S. Patil, learned counsel for the petitioner, Ms. H.N. Jaipurkar, learned Assistant Government

Pleader for the Respondent No.1 and Mr. A.M. Tirukh, learned counsel for the respondent No.2 and in the backdrop of the aforesaid circumstances, we have perused the material placed on record.

8. We note from the reply in response that after issuing the charge-sheet on 25.04.011, all that was done by the respondent No.2, Zilla Parishad, Akola, was to issue periodic communications dated 19.11.2013, 05.03.2014, 26.07.2018 and 19.03.2019 requesting the Divisional Commissioner, Amravati to initiate departmental enquiry against the petitioner. Surprisingly, while the earlier communications, which are issued from time to time during the last 11 years, requested the Commissioner to assign the enquiry to the designated enquiry officer, by the communication dated 12.07.2022, it is the Chief Executive Officer of the Zilla Parishad, who himself has appointed the Enquiry Officer. If the Chief Executive Officer is empowered to appoint the Enquiry Officer, it defies logic why the Chief Executive Officer for the last eleven years kept on communicating with the Office of the Commissioner for appointment of Enquiry Officer. Be that as it may, this aspect need not detain us. Moreover, the controversy has been put to rest by this Court in Writ Petition No.3182 of 2022 referred above.

9. We are of the considered view that the departmental

enquiry initiated against the petitioner, as also the consequential charge-sheet, must be quashed and set aside, inasmuch as, it is an admitted position that the respondent No.2, for more than 11 years, has failed to take any progressive steps to conclude the departmental enquiry initiated against the present Petitioner.

10. The Court, therefore, is inclined to release the consequential benefits in favour of the petitioner on failure of want of timely departmental enquiry on the part of the respondent No.2. We, therefore, pass the following order :

ORDER

- (i) The Writ Petition is allowed.
- (ii) The departmental enquiry initiated against the petitioner by the respondent No. 2 – Chief Executive Officer, Zilla Parishad, Akola vide memorandum of enquiry/charge-sheet dated 25.04.2011, is quashed and set aside.
- (iii) The respondent No. 2 - Zilla Parishad, Akola, is directed to release the entire retiral benefits, including is the pension or the arrears of pension, as the case may be to the petitioner till 31st May, 2026. If such an amount is not paid till 31.5.2025, the said amount would carry interest @ 10% per annum till its realization in entirety within the next ninety days.

- (iv) The Writ Petition is disposed with no order as to costs.
- (v) Rule is made absolute in above mentioned terms.

(NANDESH S. DESHPANDE, J.)

(SMT. M.S. JAWALKAR, J.)

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