



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

WRIT PETITION NO. 826 OF 2026

1.State of Maharashtra,
Through its Additional Chief Secretary,
Social Justice and Special Assistance,
Mantralaya, Mumbai-32.

2] Commissioner of Social Welfare,
Maharashtra State, 3, Church Park,
Agarkar Nagar, Pune-411 001

3] Divisional Enquiry Officer,
Office of Divisional Commissioner,
Nagpur Division, Nagpur

.... PETITIONERS.

// **VERSUS** //

Sunilkumar S/o Manikrao Kandalkar,
aged about 66 years, Occu Retired,
R/o Flat No.A-2, Prasanna Paradise Apartment,
Krushnarpan Colony, Amravati-444 607.

.... RESPONDENT.

Shri N.S. Rao, AGP for the petitioner/State
Shri R.M. Fating, Advocate for the respondent

CORAM : ANIL S. KILOR AND
RAJ D. WAKODE, JJ.

DATED : MAY 04, 2026.

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

1. Heard.
2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.
3. By way of present petition, a challenge is raised by the petitioners/State of Maharashtra to the judgment and order dated 28th November 2024, passed by Maharashtra Administrative Tribunal, Nagpur, in Original Application (OA) No. 412 of 2024, allowing the application preferred by the present respondent/applicant and thereby, holding that the department proceedings initiated against the respondent stood quashed and set aside.
4. The brief facts of the present case are as follows :

The respondent was appointed as a Social Welfare Officer in the petitioners' department, and was further promoted to the post of Deputy Commissioner. The petitioner was served with a charge sheet a day before his retirement i.e. on 30th of July, 2015, alleging several charges of irregularities and misappropriation of funds and for also issuing bogus GOI scholarship.
5. The effect of the said initiation of departmental enquiry against

the respondent was withholding pension and retiral benefits. On the other hand, a recovery is shown against the respondent to the tune of ₹66,26,66,358/-.

6. The learned Maharashtra Administrative Tribunal (MAT), Nagpur, allowed the OA of the present respondent and the departmental proceedings initiated against the respondent, as per charge-sheet dated 30th July 2015 was quashed and set aside and directed the petitioner/State to pay regular pension and other pensionary benefits to the respondent within a period of three months from the date of receipt of the said order.

7. The learned AGP submits that the findings, recorded by the Tribunal in favour of the respondent, are erroneous and thereby, the Tribunal has committed error in allowing the OA. It is submitted that the Tribunal has failed to consider the report, which depicts the regularities and misappropriation committed by the present respondent. It is submitted that the Audit Report clearly spells out the involvement of the respondent in misappropriation of funds and fraud being played against the government and therefore, the departmental enquiry was rightly initiated by petitioners.

8. It is submitted that in case of embezzlement of public funds and fabrication of records, proceedings are not to be quashed or stayed merely due to delay. In support of this submission, he has placed reliance on the judgment of the Hon'ble Supreme Court of India in the case of *Secretary to Government, Prohibition and Excise Department ..vs.. L Srinivasan*, reported in (1996)3 SCC 157.

9. It is further submitted that an inordinate and unexplained delay may justify quashing of chargesheet only if the alleged misconduct was already within the knowledge of the department. However, if the misconduct came to light later, then delay by itself is not a ground to quash the proceedings. For this purpose, he has placed reliance on the judgment of the Hon'ble Supreme Court of India in the case of *Amresh Srivastava ..vs.. State of MP*, reported in 2025 SSC OnLine SC 693.

10. On other hand, the learned counsel for the respondent submits that the respondent was initially working on the post of Social Welfare Officer and got promoted to Special District Social Welfare Officer and during his tenure, various development schemes, including the scheme of grant of scholarship to the backward class students, were implemented. Further, the respondent continuously worked from the year 2002-03 at

different places and no show cause or departmental enquiry was pending against him. Thus, his service record is clear and unblemished.

11. It is submitted that the charge-sheet, dated 30th July, 2015, containing eight charges, pertaining to regularities in implementation of the scheme of scholarship during the period of 2001-02 to 2003-04, was served upon the respondent. The charge-sheet was in the relation to the incident took place around 10 years back. It is further submitted that even after initiation of enquiry in 2015 till the decision on OA in the year 2024 i.e. even after nine years, the enquiry was not concluded and only two witnesses were examined and many more are to be examined.

12. It is submitted that this is nothing but harassment to a retired employee, who has been served with the charge-sheet a day before his retirement.

13. It is submitted that without any supporting documents or evidence to the charges levelled against the respondent, the department proceedings was initiated to victimize the respondent and the same is the reason for not having any progress in the departmental proceedings. It is therefore submitted that the Tribunal has rightly held in favour of the

respondent and this Court may not interfere. He has placed reliance upon the judgments of the Supreme Court of India in the cases of *Prem Nath Bali ...Vs... High Court of Delhi*, reported in (2015) 16 SCC 415 and State of AP versus *N Radhakishan*, reported in (1998) 4 SCC 154.

14. Having heard the learned Counsel for the respective parties and gone through the record, it is evident that the charge-sheet was served upon the respondent, containing 8 charges, a day before his superannuation. The charge-sheet was served on 30th July, 2015, relating to the charges as regards irregularity and misappropriation alleged to have committed during the years 2000-03. Thus, it is evident that the charge-sheet was served upon the respondent after more than 10 years from the date of the alleged misconduct. When a specific query was put to the learned AGP regarding the progress of the enquiry till the date of judgment in the OA, it was informed that only two witnesses had been examined.

15. In the case of *Secretary to Government, Prohibition and Excise Department* (supra) the order of the Tribunal, whereby the departmental enquiry was quashed and set aside on the ground of delay in initiation of disciplinary proceedings, was held to be unsustainable, as it was observed

that the nature of the charges it would take long time to detect embezzlement and fabrication of false records which should be done in secrecy.

16. However, the facts of the present case are different. Even after a period of nine years from the initiation of the departmental enquiry, there has been no progress in the matter. Therefore, the above-mentioned authority is of no assistance to the petitioners, as the same is distinguishable on facts.

17. So far as the judgment in the case of *Amresh Shrivastava* (supra) is concerned, the Hon'ble Supreme Court of India has held that the question as to whether delay can be a ground to stop departmental proceedings at the stage of issuance of charge-sheet depends upon the facts and circumstances of each case. In that case, due to unexplained and inordinate delay in initiating the departmental proceedings, despite the alleged misconduct being within the knowledge of the department, the Hon'ble Supreme Court held in favour of the employee.

18. In the present matter, even if it is presumed that the alleged misconduct, irregularities and misappropriation were not within the knowledge of the department, the fact remains that the delay is not only

in issuing the charge-sheet, but also thereafter in examining witnesses and concluding the proceedings. Therefore, the above-referred judgment rather supports the case of the respondent and not the petitioner/State.

19. In the case of *Prem Nath Bali* (Supra), the Hon'ble Supreme Court of India, has held thus;

“28. Keeping these factors in mind, we are of the considered opinion that every employer (whether State or private) must make sincere endeavour to conclude the departmental enquiry 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. Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time-frame then efforts should be made to conclude within the reasonably extended period depending upon the cause and the nature of inquiry but not more than a year.”

20. It is beneficial to refer to the judgment of Hon'ble Supreme Court of India in the case of *State of A.P.* (supra), has held thus:

“19. 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.”

21. The principle laid down in the above referred judgments of the Hon’ble Supreme Court of India, and having gone through the findings recorded by the learned Tribunal, we do not find any perversity or illegality committed by the learned Tribunal in quashing and setting aside the charge-sheet dated 30th July, 2015. Accordingly, as we do not find any merit in the present petition, we pass the following order :

The petition is **dismissed**.

Rule stands discharged. No order as to costs.

(RAJ D. WAKODE, J)

(ANIL S. KILOR, J)