

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 946 of 2022 (D.B.)**

Anand S/o Tukaram Bandebuche,
aged 58 years, Occ. Retired,
R/o Plot No.200, Jawahar Nagar, Manewada Road,
Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
Through Its Secretary, Urban Development Department,
Mantralaya, Mumbai-32.
- 2) The Commissioner / Director of Municipal Administration,
Having its office at 7th Floor, Belapur Bhavan,
New Mumbai Municipal Corporation Building,
C.B.D., Belapur, New Mumbai-400614.
- 3) The Regional Deputy Commissioner,
Municipal Administration Department,
having its office in the Commissionerate Building,
Civil Lines, Nagpur.
- 4) Municipal Council Morshi,
Dist. Amravati through its Chief Officer, Morshi.

Respondents.

Shri S.P. Palshikar, Advocate for the applicant.

Shri S.A. Sainis, P.O. for respondent nos.1 to 3.

S/ Shri M.I. Dhattrak, S.S. Sahu, N.N. Dighe, Advs. For resp.no.4.

**Coram:- Hon'ble Shri Justice Vinay Joshi
Vice Chairman and
Hon'ble Shri Nitin Gadre, Member (A).**

Dated:- 18 / 11 / 2025.

JUDGMENT

**Per : Hon'ble Shri Justice Vinay Joshi :
Vice Chairman.**

Heard Shri S.P. Palshikar, learned counsel for applicant, Shri S.A. Sainis, learned P.O. for respondent nos.1 to 3 and Ms. Akansha Dhattrak holding for Shri M.I. Dhattrak, learned counsel for respondent no.4.

2. The applicant is aggrieved by the order of issuance of charge sheet dated 06/08/2019 which is the subject matter of challenge. The applicant raises twofold challenge stating that the departmental enquiry regarding the incident took place more than four years preceding to the charge sheet is in violation of Rule 27 (2) (b) (ii) of the Maharashtra Civil Services (Pension) Rules, 1982 (in short "Rules of 1982"). Secondly, there is inordinate delay in holding departmental enquiry which is liable to be quashed in terms of decision of the Hon'ble Supreme Court in case of ***Prem Nath Bali VS. Registrar, High Court of Delhi & Ano. AIR 2016 SCC 101.***

3. The facts in brief are that the applicant has entered into Government service in the year 1985 as a Junior Engineer (Class-III) and was posted at Municipal Council, Pauni, District Bhandara. While the applicant was working as a Junior Engineer at Pauni, Crime No.

44/2017 was registered against him for the offence punishable under Sections 7, 13 (1) (d) and 13 (2) of the Prevention of Corruption Act. Owing to the registration of Crime, the applicant was placed under suspension vide order dated 19/03/2017 and then was reinstated on 13/08/2019. The applicant stood retired by superannuation on 30/06/2022. Prior to retirement, the applicant was served with charge sheet on 06/08/2019. However, for next three years there was no progress as only on 15/07/2022 the Enquiry Officer was appointed. Till date, the enquiry has not been commenced, as not a single witness has been examined.

4. The State has resisted this application vide reply-affidavit dated 25/11/2022. It is submitted that the provisions of Rule 27 (2) (b) (ii) of the Rules of 1982 would not apply as the charge sheet was served while applicant was in service. Secondly, there was no inordinate delay on the part of Department. Though charge sheet was served on 06/08/2019, the applicant did not submit statement of defence for three years, therefore the Enquiry Officer was appointed belatedly. With these contentions, the application is prayed to be rejected.

5. At the inception, we may note that on filing of this application, vide order dated 28/09/2022 proceeding of departmental enquiry has been stayed in view of the decision of Hon'ble Supreme Court in case of **Prem Nath Bali (supra)**. Thus, the department cannot be blamed for the delay

which occurred after passing of the interim order dated 28/09/2022. In other words, the Tribunal needs to consider the aspect of delay having regard to the position which stands on 28/09/2022.

6. So far as the first ground about sustainability of the departmental action is concerned, the applicant heavily relied on Rule 27 (2) (b) (ii) of the Rules of 1982. The applicant's learned counsel would submit that the charge sheet dated 06/08/2019 relates to the incident of the year 2015, i.e., preceding four years hence would not sustain in view of Rule 27 (2) (b) (ii) of the Rules, 1982. In other words, he would submit that though charge sheet was served prior to retirement, still rigour of Rule 27 (2) (b) (ii) of the Rules, 1982 would apply. The applicant's main emphasis is on the applicability of Rule 27 (2) (b) (ii) of the Rules, 1982 which reads as below-

“(27) Right of Government to withhold or withdraw pension –

(1) -----

(2) (a) -----

(b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment, -

(i) -----

(ii) shall not be in respect of any event which took place more than four years before such institution, and

(iii) -----

7. The applicant has been retired by superannuation on 30/06/2022 whilst chargesheet was served on 06/08/2019. The applicant took us through the charge memo indicating that for the instance occurred in the year 2015, charge sheet has been filed. The applicant would submit that the charge sheet served on 06/08/2019 relates to the incident / event which took place more than four years preceding to the institution of charge sheet and thus hit by embargo created under sub clause (ii) to Rule 27 (2) (b) of the Rules of 1982. The said submission is totally misconceived since it would apply to the employees who have retired. Admittedly, applicant was in service when charge sheet was served. The opening words of sub clause (b) itself indicate that the departmental proceedings if not instituted against the government servant while in service, then sub clauses (i) to (iii) would apply. The position herein is quite clear that while the applicant was in service, the charge sheet was served in the year 2019 and thus the submission in the regard is totally devoid of merit.

8. In support of said contention, applicant has relied on the decisions of the Tribunal and the Hon'ble High Court as under –

- (i) The decision of the M.A.T., Bench at Aurangabad in case of ***Madhukar L. Dodake Vs. the State of Maharashtra & Ors.***, in O.A.No.338/2021, decided on 14/06/2022.

(ii) The decision of the M.A.T., Bench at Nagpur in case of ***Purushottam V. Lute Vs. the State of Maharashtra & Ors.***, in O.A.No.638/2017, decided on 30/01/2023.

(iii) The decision of the M.A.T., Bench at Nagpur in case of ***Waman R. Kashikar Vs. the State of Maharashtra & Ors.***, in O.A.No.318/2022, decided on 27/06/2023.

(iv) The decision of the Hon'ble Bombay High Court in case of ***Chairman/Secretary of Institute Shri Acharya Ratna Deshbhushan Shikshan of Prasarak Mandal, Kolhapur and Another VS. Bhujgonda B. Patil, 2003 (3) Mh.L.J.,602.***

(v) The decision of the Hon'ble Bombay High Court, Bench at Aurangabad in case of ***Shankar Shivling Swami Vs. State of Maharashtra & Ors., 2012 (3) Mh.L.J.,886.***

(iv) The decision of the Hon'ble Bombay High Court in case of ***Manohar B. Patil Vs. State of Maharashtra & Ors., 2013 (6) Mh.L.J.,311.***

9. The above decisions of the Tribunal lies on different footing wherein after retirement charge sheet has been served and thus in said contingency, the departmental inquiries have been discontinued. Moreover, the decision of the Hon'ble Bombay High Court would not apply being distinct facts.

10. As regards to the second ground, as stated above, the position as stands on the date of interim order of stay, i.e., 28/09/2022 needs to be considered. The applicant's learned counsel vehemently argued that for the incident of the year 2015 charge sheet has been served on

06/08/2019 and more particularly for next three years there was total inaction. In other words, it is submitted that the Department even did not appoint the Enquiry Officer, which they did on 15/07/2022 and thus there happened to be inordinate delay. The applicant's learned counsel heavily relied on the decision of the Hon'ble Supreme Court in the case of **Prem Nath Bali (supra)** to contend that the Department is under obligation to conduct and conclude the departmental enquiry in shortest possible period. The long pendency of inquiries would vitiate the proceeding. For this purpose, he has attracted our attention to para 30 to 33 of the decision which reads as below –

“(30) We are constrained to observe as to why the departmental proceeding, which involved only one charge and that too uncomplicated, have taken more than 9 years to conclude the departmental inquiry. No justification was forthcoming from the respondents’ side to explain the undue delay in completion of the departmental inquiry except to throw blame on the appellant's conduct which we feel, was not fully justified.

(31) Time and again, this Court has emphasized 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. In cases where the delinquent is placed under suspension during the pendency of such inquiry then it becomes all the more imperative for the employer to ensure that the inquiry is concluded in the shortest possible time to avoid any inconvenience, loss and prejudice to the rights of the delinquent employee.

(32) As a matter of experience, we often notice that after completion of the inquiry, the issue involved therein does not come to an end because if the findings of the inquiry proceedings have gone against the delinquent employee, he invariably pursues the issue in Court to ventilate his grievance, which again consumes time for its final conclusion.

(33) Keeping these factors in mind, we are of the considered opinion that every employer (whether State or private) must make sincere endeavor to conclude the 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. 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 reasonably extended period depending upon the cause and the nature of inquiry but not more than a year.”

11. The applicant would submit that though in above decision the Court has ruled to conclude the enquiry within six months as an outer limit and not beyond one year, however, in case at hand, despite lapse of three years, there was no progress. To buttress the said submission, applicant further relied on the decision of this Tribunal in case of **Dr. Balkrishna N. Bangde Vs. State of Maharashtra & Ors.**, decided on 09/07/2024 and the decisions of Hon'ble Bombay High Court, Bench at Nagpur in case of the **State of Maharashtra Vs. Chandrakant K. Borkar** in Writ Petition No.7068/2023, decided on 19/10/2023 and in case of **Mukul S. Gajbhiye Vs. State of Maharashtra & Ors.**, in Writ

Petition No.3656/2021, decided on 12/01/2023. The central line of argument is that on account of inordinate unexplained delay, the enquiry vitiates.

12. On the other hand, learned P.O. would submit that on mere ground of delay, the enquiry cannot be quashed. He would submit that due to the order of stay to the enquiry, the Department could not proceed. However, we have clarified about that we are considering the position on the date of passing of interim order to assess the point of delay. The learned P.O. by relying on the decision of Hon'ble Supreme Court in case of ***State of Madhya Pradesh & Ano. Vs. Akhilesh Jha & Ano.,(2021) 12 SCC 460***, would submit that every delay in conducting a disciplinary enquiry does not *ipso facto* lead to the enquiry being vitiated. We are well aware about the said proposition. However, it is a matter of fact to be decided objectively on case to case basis, whether the delay attributes on the part of Department or the delinquent has prolonged the proceeding.

13. In the light of above decisions, we have revisited the facts of the case, which is matter of record. Undisputedly, charge sheet has been served on the applicant on 06/08/2019. However, surprisingly, for next three years, the Department even did not bother to appoint Inquiry Officer apart from further progress. The respondent has tried to explain that since the applicant did not submit his written statement, it resulted

into causing delay in appointing Inquiry Officer. It is not possible to accept said feeble stand for simple reason that while serving charge sheet, notice was issued to the applicant to file his statement of defence within 10 days, failing which, the matter would be proceeded ex-parte. Despite such clear indication, the delinquent has not filed written statement which would not preclude the Department from going ahead. Rather, the notice was clear enough that in absence of statement of defence filed within 10 days, the Department would be justified in proceeding with the inquiry. However, for long three years, the Department did not even bothered to appoint an Inquiry Officer for which there could be no justification. The delay in conducting the inquiry which has occurred would naturally caused suffering to the delinquent. As held by the Hon'ble Supreme Court in case of ***Prem Nath Bali (supra)***, it is the duty of the employer to ensure that the departmental inquiry initiated against a delinquent employee is concluded within the shortest possible time on priority basis. It is not the case that the magnitude of inquiry was quite vast and there are some more delinquents so that it would be cumbersome exercise. The facts are indicative that for a single instance of demanding bribe, single charge has been leveled, but still there was no progress. The delinquent has not contributed in inordinate delay as the department himself has not even appointed Inquiry Officer for next three years. In above peculiar facts, by following the law laid down by

the Hon'ble Supreme Court in case of ***Prem Nath Bali (supra)***, continuation of enquiry is wholly unjustified. In the circumstances, following order-

ORDER

- (i) The application is allowed.
- (ii) We hereby quash and set aside the departmental enquiry vide charge sheet dated 06/08/2019. The grant of consequential benefits would depend on the result of criminal prosecution.

(Nitin Gadre)
Member (A).

(Justice Vinay Joshi)
Vice-Chairman.

Dated - 18/11/2025.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman and
Hon'ble Member (A).

Judgment signed on : 18/11/2025.

Ok