

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO.455/2024 (D.B.)**

Dr. Anil S/o Keshav Bhavsar,
 Aged about 64 years,
 Occupation: Retired Medical Officer,
 R/o. Deshmukh Nagar, Pusad,
 District: Yavatmal - 445204.

... **APPLICANT**

// V E R S U S //

- 1] **State of Maharashtra,**
 Through the Secretary,
 Department of Public Health,
 Mantralaya, Mumbai - 400032.
- 2] **Director of Health Services Mumbai,**
 Add. At. Commissionerate of Health Services,
 ArogyaBhavan, St. George's Hospital Compound,
 P.D'Mello Road, Mumbai - 400001.
- 3] **Deputy Director of Health Services,**
 Circle Akola, Add. At. New Radhakisan Plots,
 Akola, District Akola - 444001.
- 4] **Zilla Parishad Yavatmal,**
 Through its Chief Executive Officer.
- 5] **District Health Officer,**
 Zilla Parishad, Yavatmal,
 Add. At. Zilla Parishad Office,
 Arni Road, Umarsara, Yavatmal,
 District Yavatmal -445001.

... **RESPONDENTS**

Shri G.S. Kidambi, A.I. Ragit, Learned Counsel for the Applicant.

Smt. S.R. Khobragade, Id. P.O. for the Respondent Nos.1 to 3.

Shri J.Y. Ghurde, V.B. Bhise, Abhay Gashe for Respondent Nos. 4 & 5.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Acting Chairman and
Hon'ble Shri Nitin Gadre,
Member (A).**

Date :- 17/06/2025

O R A L J U D G M E N T

Heard Shri G.S. Kidambi, learned counsel for the Applicant, Smt. S.R. Khobragade, learned P.O. for the Respondent Nos.1 to 3 and A.Motlag, Id. counsel holding for Shri J.Y. Ghurde, learned counsel for the Respondent No.4 & 5.

2. The case of the applicant in short is as under:-

Applicant has challenged the charge-sheet dated 07/08/2019 issued by Respondent No.1 served with a covering

letter dated 09/10/2019. Respondents have also stopped the provisional pension. Applicant while working on the post of Medical Officer on 05/10/2019, one communication letter was sent by Respondent No. 5 - District Health Officer, Zilla Parishad, Yavatmal alongwith charge-sheet dated 07/08/2019 in which he is falsely implicated by levelling two charges of Misconduct and Dereliction of duty and asked applicant to give the detailed explanation within 10 days. It was alleged that the applicant has committed misconduct while he was serving at Primary Health Centre, Shembalpimpri, District Yavatmal between 20/12/2007 to 11/06/2011. While he was serving as Taluka Health officer, he has taken bribe from two contractual employees i.e. from Smt. Jyoti Pandurang Kamble and from Smt. Anjana Vijay Chawan. Charge-sheet is issued by the respondents on 07/08/2019. Respondents have not completed the Departmental Enquiry. Applicant is already retired on 31/12/2021. Applicant is not getting any provisional pension or any retiral benefits, therefore, prayed to quash and set aside the Departmental Enquiry.

3. The O.A. is strongly opposed by the respondents. It is submitted that Departmental Enquiry is going on. The Presenting

Officer has also submitted report. Hence, the O.A. is liable to be dismissed.

4. During the course of submission, learned counsel for applicant has made statement that complainant has made complaint and also filed criminal cases, those criminal cases were dismissed by the Court. The Departmental Enquiry is not initiated till date. This Tribunal has given specific directions to the respondents on 03/09/2024. Respondents are not complying the order. Learned counsel for applicant has pointed out Judgment of this Tribunal in O.A. No. 412/2024 in the case of ***Sunilkumar M. Kandalkar VS. State of Maharashtra & Ors.***, decided on 28/11/2024 and O.A. No.858/2019 in the case of ***Dr. Anil N. Wankhede VS. State of Maharashtra & Ors.***, decided on 04/01/2024.

5. Heard learned P.O. As per her submission, Departmental Enquiry is going on. Hence, the O.A. is liable to be dismissed.

6. Adv. A.M. Motlag, learned counsel holding for Shri J.Y. Ghurde has submitted that Presenting Officer has submitted

report, therefore, Departmental Enquiry cannot be quashed and set aside.

7. Applicant is superannuated in the month of December, 2021. Enquiry is going on. Initial date of enquiry is 2011 i.e. since last 10-11 years, respondents have not completed the Departmental Enquiry. As per the Judgment of the Hon'ble Supreme Court in the case of ***State of Andhra Pradesh VS. N. Radhakishnan, reported in AIR 1998 (SC) 1833***, the Departmental Enquiry is liable to be quashed and set aside. The Hon'ble Supreme Court has held that the enquiry pending since last 10-11 years cannot be continued. This Tribunal has held in above cited O.A. No. 412/2024 and O.A. No.858/2019 that Departmental Enquiry pending since last 10-11 years cannot be continued.

8. This Tribunal has passed order on 27/09/2024 to complete the D.E., but respondents are not complying the order of this Tribunal. Even the case of Hon'ble Supreme Court in the case of ***State of Madhya Pradesh & Ano. Vs. Akhilesh Jha & Ano. (2021) in Civil Appeal No.5153/2021***, is considered, then also the Respondents have to consider the time limit given by this Tribunal

for completion of the Departmental Enquiry. Learned counsel for applicant has pointed out Judgment of the Hon'ble Supreme Court in the case of ***Prem Nath Bali VS. Registrar, High Court of Delhi & Ano. AIR 2016 SCC 101***, decided on 16/12/2015. In view of the Judgment of the Hon'ble Supreme Court in the case of ***N. Radhakishnan (cited supra)***, it is clear that Enquiry cannot be continued for a long period of more than 10-11 years. Applicant is facing the Departmental Enquiry since 2011. Applicant is retired in the month of December, 2021 i.e. after 10 years from the date of initial date of enquiry. Even thereafter also, the Respondents have not completed the Departmental Enquiry. Applicant is not getting any pension and pensionary benefits. Hence, the following order:-

O R D E R

- (i)** The O.A. is allowed;
- (ii)** Departmental Enquiry initiated by Respondents vide charge-sheet dated 07/08/2019 is hereby quashed and set aside;
- (iii)** Respondents are directed to pay all the pension and pensionary benefits to applicant within a

period of three months from the date of receipt of
this order;

(iv) No order as to costs.

(Nitin Gadre)
Member (A)

(Justice M.G. Giratkar)
Acting Chairman.

Dated :- 17/06/2025.

PRM

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

Name of Steno : Piyush R. Mahajan.

Court Name : Court of Hon'ble Acting Chairman.
& Member (A).

Judgment signed on : 17/06/2025