

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 481 OF 2022  
(Subject – Minor Punishment)**

**DISTRICT : AHMEDNAGAR**

**Dhanwantsing s/o Harising Saini,** )  
Age : 54 years, Occu. : Service as Subhedar )  
in the office of Ahmednagar District Prison, )  
R/o : Sub Jail Chowk, Quarter No. 4, )  
Room No. 4, Ahmednagar, Dist. Ahmednagar.)

.... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through : The Secretary, )  
Home Department, )  
Mantralaya, Mumbai- 32. )
2. **The Additional Director General and )  
Inspector General of Police (Prison), )  
Maharashtra State, Pune, Old Central )  
Building, Pune-1. )**
3. **The Deputy Inspector General of Prisons,) )  
Western Region, Pune-6. )**
4. **The Superintendent,** )  
Ahmednagar District Prison, Ahmednagar.)

... **RESPONDENTS**

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**APPEARANCE** : Shri S.D. Joshi, Counsel for Applicant.

: Shri N.U. Yadav, Presenting Officer for  
respondent authorities.

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**CORAM** : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

**RESERVED ON** : **15.01.2024**

**DATE** : **14.02.2024**  
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**ORDER**

1. Heard Shri S.D. Joshi, learned counsel appearing for the applicant and Shri N.U. Yadav, learned Presenting Officer appearing for respondent authorities.

2. By this Original Application, the applicant is challenging order dated 22.02.2022 passed by respondent No. 2 in appeal confirming thereby the order of punishment dated 09.04.2020 passed by the respondent No. 3, thereby imposing punishment of stoppage of one increment with future effect under Rule-5(4) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979.

3. Brief facts as stated by the applicant giving rise to the present Original Application are as follows :-

(i) The applicant is working as Subhedar in Ahmednagar district. The respondent No. 3 was pleased to issue the memorandum of charge-sheet dated 10.08.2017 to the applicant under the provisions of rule 8 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (for short Discipline & Appeal Rules). Two charges came to be levelled against the applicant. Charge No. 1 was in respect of

insubordination, whereas charge No. 2 was in respect of using abusive language to the lady Guards in respect of allotment of Government quarter. It has been alleged that the applicant has violated Rule 25(7) of the Maharashtra Prison Manual, 1979, as well as, violated Rule 3(1) and Rule 3(22) of the Discipline & Appeal Rules.

(ii) It is further case of the applicant that the applicant has submitted his detailed reply on 20.09.2017, thereby denying both the charges levelled against him. So far as Charge No. 1 is concerned, it is the case of the applicant that the Superintendent of Prison, Ahmednagar has called him in his chamber and alleged that the applicant has got certain prohibited things by hiding the same in his turban for supply of the same to the prisoners. On the basis of this allegation, he was asked not to wear the turban from the next day. The applicant has refused to obey the order of not wearing the turban, which is the part of his religion. Thus charge of insubordination appears to have been levelled against the applicant due to this incident. So far as charge No. 2 is concerned, the applicant has already awarded the punishment of stoppage of two increments in the matter of Sangita Sonune under the order dated 05.11.2016 and this

is in respect of allegation in respect of Jayashri Pawar reprimanded by order dated 05.11.2016.

(iii) It is further case of the applicant that the Superintendent of Prison, Yerwada, Pune-6 was appointed as an Enquiry Officer and submitted his report on 28.11.2019, thereby holding charge No. 1 as "Proved" and Charge No. 2 as "Partly Proved". The department has examined 08 witnesses to substantiate the charges levelled against the applicant. The applicant thereafter issued show cause notice in respect of proposed punishment calling upon him as to why the punishment of "Dismissal" from the service should not be imposed upon him. The applicant has submitted his reply on 09.03.2020 denying the fact that the charges levelled against him have been proved. The respondent No. 3 by order dated 09.04.2020 was pleased to impose the punishment of stoppage of one increment with effect on future increments against the applicant.

(iv) Being aggrieved by the said order of punishment, the applicant has preferred appeal to the office of respondent No. 2 on 15.10.2020. By order dated 22.02.2022, the

respondent No. 2 has dismissed the said appeal preferred by the applicant. Hence, the present Original Application.

4. Learned counsel for the applicant submits that so far as charge No. 2 is concerned, the applicant was tried for the same charge, wherein he was already subjected to punishment in the year 2016. Learned counsel submits the so far as charge No. 1 is concerned, though the Enquiry Officer has recorded the findings in his enquiry report, however failed to consider the defense raised by the applicant. On the other hand, there is no reference in the enquiry report about the defense raised by the applicant. Learned counsel submits that both the charges have not been proved. There is no cogent evidence available before the enquiry officer to record the findings in the affirmative.

5. Learned counsel for the applicant submits that the show cause notice in respect of proposed punishment calling upon him as to why the punishment of "Dismissal" from the service should not be imposed upon him indicates the prejudice against the applicant. There are no serious and grave charges levelled against the applicant to impose the punishment of dismissal, however, the show cause notice has been given to the applicant to propose the punishment of dismissal. Further the

applicant has submitted copies of the statement of two witnesses and questioned the appreciation of evidence by the Enquiry Officer. Learned counsel submits that the Enquiry Officer himself was facing the enquiry for the grave charges and therefore, same is in violation of the Government Notification dated 14.11.2013. Further though the applicant has raised all the grounds in his appeal, the order passed by the appellate authority is without reasoning and against the provisions of Rule 8.7 of the Manual of the Departmental Enquires. Learned counsel submits that moreover punishment of stoppage of one increment for charge No. 1 is disproportionate punishment. Learned counsel submits that the present Original Application deserves to be allowed by setting aside the order dated 09.04.2020 passed by the respondent No. 3 and order dated 22.02.2022 passed by the respondent No. 2 in the appeal by confirming the order of punishment dated 09.04.2020.

6. On the basis of affidavit in reply filed on behalf of respondents, learned Presenting Officer submits that the Enquiry Officer was appointed to enquire into the charges levelled against the applicant. Though the applicant denied both the charges levelled against him, however it is clear that the applicant for

hiding his own mistakes has taken the false stand pertaining to his religion.

7. Learned Presenting Officer submits that as per the final report submitted by the Enquiry Officer, the Charge No. 1 is completely proved and the charge No. 2 is partially proved. As per the Enquiry Report, the findings and evidence of the Government witnesses, the applicant spoke rudely to the Superintendent of Jail and insulted the senior officer like him by using threats. The said charge has been proved. Learned P.O. submits that in terms of Rule 25 of the Maharashtra Prison Manuel, 1979 chapter 13 Staff Discipline, certain offences are ordinarily be punished by dismissal. In rule 25, sub-clause 7 of the Maharashtra Prison Rules, 1979, insubordination or insolence to any officer superior to him is included. Therefore, it is denied that the senior officer had grudge against the applicant and therefore, show cause notice has been issued against the applicant calling upon him to submit explanation as to why the punishment of dismissal should not be imposed against him. It cannot be ignored that the punishment has been inflicted of stoppage of one increment permanently, which is proportionate to the act committed by the applicant. Learned P.O. submits that there is no violation of the principles of natural justice. The

enquiry has been completed as per the procedure established. The entire enquiry was conducted in accordance with the provisions of Rule 8 of the Divisional Inquiry Rules, 1991 and Rule 8 of the Discipline & Appeal Rules. There is no substance in the present Original Application and the same is liable to be dismissed.

8. It appears that though the Enquiry Officer has recorded the findings of charge No. 2 as partly proved, it appears that the punishment has been imposed on the applicant to the extent of charge No. 1, which has been proved completely. I have carefully perused the enquiry report and also the copies of evidence of witnesses. It appears that the applicant has talked with the Superintendent of Jail disrespectfully and further threatened him do whatever he want and he has no fear of anyone's father. The applicant on the other hand has tried to take advantage about his religion and in that context made allegation against the Superintendent of Jail to the effect that, the Superintendent of Jail on 06.11.2016 questioned the applicant for hiding some suspicious articles of intoxicants being provided to the prisoners and directed him further not to wear turban. The witnesses have consistently stated that no such incident as stated by the applicant has taken place and on the



other hand, the applicant has spoken to his superior in a very arrogant, rude and disrespectful manner. He has given threat to his senior officer to suspend him, hang him and he has no fear of father of anyone.

9. The post of the applicant is Subhedar. Subhedar supposed to be the head of the Constabulary posted in the Prison. Thus if an employee, like him behaves in such a manner, it gives the wrong message to the junior constabulary. The punishment imposed upon the applicant of stoppage of one increment permanently is proportionate to the act committed by him and the appellate authority dismissed the appeal of the applicant on merits. It is further part of the record that the applicant has been given full opportunity to defend himself in the proceedings of Departmental Enquiry and he has also given an opportunity to present his side. The enquiry was conducted as per the procedure established. There are no lacunas in this regard.

10. In view of the above discussions, I find no substance in the present Original Application and the same is liable to be dismissed. Hence, the following order :-

**ORDER**

- (i) Original Application No. 481/2022 is hereby dismissed.
- (ii) In the circumstances, there shall be no order as to costs.
- (iii) O.A. stands disposed of accordingly.

**PLACE : Aurangabad.****DATE : 14.02.2024****(Justice V.K. Jadhav)  
Member (J)**

KPB S.B. O.A. No. 621 of 2023 VKJ Transfer