

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 681 OF 2018

(Subject – Minor Punishment)

DISTRICT : JALAN

Shri Ganesh S/o Narayan Patil,)
Age : 56 years, Occu. : Service,)
R/o Swalambi Nagar, Kathora Road,)
Behind Rohini Park Lawn, Amravati.)

.. **APPLICANT**

V E R S U S

- 1) **The State of Maharashtra,**)
Through Secretary,)
Water Supply Department,)
Mantralaya, Mumbai -32.)
- 2) **The Director Ground Water**)
Survey and Development Agency,)
Maharashtra State, Pune -5.)
- 3) **The Additional Chief Secretary,**)
Water Supply and Sanitation)
Department (Water Supply-15),)
7th Floor, Gokuldas Tejpal Hospital,)
Building Complex, Lokmanya Tilak)
Road, New Mantralaya Building)
Mumbai.)

.. **RESPONDENTS**

APPEARANCE : Shri G.G. Hulsure, Advocate holding for Shri
P.B. Rakhunde, Advocate for the Applicant.

: Shri N.U. Yadav, Presenting Officer for the
Respondents.

CORAM : **B.P. PATIL, ACTING CHAIRMAN.**

RESERVED ON : **29.08.2019.**

PRONOUNCED ON : **05.09.2019.**

ORDER

1. The applicant has challenged the order passed by the respondent No. 3 in the appeal on 30.06.2018 against the order passed by the respondent No. 2 on 29.08.2017 in the Department Enquiry against the applicant. He has also prayed to quash and set aside the impugned communication dated 10.07.2018 stopping his one increment for one year by filing the present Original Application.

2. The applicant is serving as a Junior Engineer under the Director of Ground Water Survey and Development Agency since the year 1989. His entire service record is good, satisfactory and unblemished. In the year 2008, he was serving as a Junior Engineer in the office of Deputy Director of Ground Water Survey and Developing Agency (G.S. & D.A.). One B.B. Ranit, was also serving as Junior Engineer at Amravati. The applicant was not having good terms and relation with Shri B.B. Ranit. In the year 2011, Shri B.B. Ranit, was on deputation at Gadchiroli and he was not working in the office at Amravati. However, on 17.12.2011, Shri B.B. Ranit visited the office of respondent at Amravati without prior permission or intimation to the higher authority and raised quarrel with the applicant. He abused the applicant and tried to hit the applicant by glass placed on table.

The applicant tried to save himself from the said glass and that time Shri B.B. Ranit got injured. It is his contention that he never injured Shri B.B. Ranit. It is his contention that Shri B.B. Ranit submitted a false report against the applicant and on the basis of said report, Police registered the crime against him on 17.12.2011. It his further contention that on the same day he had lodged complaint with the Police Station Gadge Nagar, but no cognizance on his complaint has been taken. It is his further contention that the respondent authority issued the charge-sheet dated 11.11.2013 to the applicant on false charges without considering the true facts. The applicant had replied to the charges levelled against him. An Enquiry Officer has been appointed to conduct the Departmental Enquiry. The Enquiry Officer had not given opportunity of hearing to the applicant to examine the defence witness and the defence statement has also not been recorded. It is his contention that the Enquiry Officer concluded enquiry against the principles of natural justice and therefore, it is illegal. It is his contentions that the Enquiry Officer recorded the findings that the charges leveled against the applicant have been proved and on the basis of his report, the respondent No. 2 has passed the order dated 29.08.2017 and punished him and withhold his one increment for three years permanently. The applicant has challenged the said decision by

preferring an appeal before the respondent No. 3. The respondent No. 3 decided the said appeal on 30.06.2018 and modified the order and reduced the punishment of stoppage of one increment for three years to the punishment of stoppage of one increment for a year without cumulative effect subject to decision and outcome of Criminal Case No. 83/2013. It is his contention that the impugned order is perverse and illegal. It is his contention that the appellate authority has held that none of the charges levelled against the applicant have been proved and set aside the order passed by the disciplinary authority dated 29.08.2017. But the respondent No. 3 has wrongly passed the order punishing him and stopping his one increment for a year without cumulative effect subject to decision and outcome of the Criminal Case No. 83/2013. Therefore, he has challenged the said order by filing the present Original Application and he prayed to quash and set aside the same.

3. The respondent No. 2 to 3 have filed their affidavit in reply and resisted the contentions of the applicant. They have admitted the fact that the applicant is serving with the respondents since the year 1989. It is their further contention that the applicant was under Judicial Custody for three offences during the period from 01.04.1990 to 06.04.1990, but he had not

informed the office about it and got leave approved from the office. Because of his misconduct, disciplinary action has been initiated against him and punishment of withholding of an increment permanently was imposed against him. It is their contention that in the another case, the D.E. was initiated against the applicant for causing injury to one Shri B.B. Ranit, Junior Engineer, by hitting him with the help of table glass in the office. In that enquiry, the charges were proved against the applicant and therefore, punishment of withholding of one increment permanently for next three years was imposed against him. It is their contention that the Criminal Case No. 83/2013 for the offences punishable under Section 324, 504 and 506 of IPC was registered against the applicant in respect of the said incidence. It is their contention that the applicant has challenged the order dated 29.08.2019 before the appellate authority i.e. the Additional Chief Secretary, Water Supply and Sanitation Department by preferring an appeal and it was decided on 30.06.2018. An opportunity of hearing was given to the applicant in the appeal. The appellate authority was found anomaly in the testimony given by witness Shir A.L. Jambhulkar and therefore, he allowed the appeal and revoked the punishment order dated 29.08.2017 and imposed the punishment on the applicant withholding his one increment for

one year subject to decision and outcome of the Criminal Case No. 83/2013 without effecting next increment in view of the provisions of Rule 23(2)(C)(1) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. It is their contention there is no illegality in the impugned order passed by the disciplinary authority, as well as, the appellate authority and therefore, they have supported the same and prayed to reject the present Original Application.

4. I have heard Shri G.G. Hulsure, learned Advocate holding for Shri P.B. Rakhunde, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents. I have perused the documents placed on record by both the parties.

5. Admittedly, the applicant is serving with the respondents since the year 1989 as Junior Engineer. There is no dispute about the fact that in the year 2008, the applicant was serving with the respondents at Amravati. Admittedly, one Shri B.B. Ranit was serving as Junior Engineer. There is no dispute about the fact that on 17.12.2011, the applicant, as well as, Shri B.B. Ranit were present in the office of respondents at Amravati and that time alleged incident of beating by the applicant to Shri B.B. Ranit by table glass had been occurred. Admittedly, Shri

B.B. Ranit has filed application with the Police Station Gadge Nagar. On the basis of said application, the Criminal Case No. 83/2013 has been registered against the applicant for the offences punishable under Section 324, 504 and 506 IPC. Admittedly, the said criminal case is still pending. There is no dispute about the fact that the respondent No. 2 i.e the disciplinary authority initiated the departmental enquiry against the applicant for his alleged misconduct and an enquiry officer has been appointed. The Enquiry Officer conducted the enquiry and concluded that the charges levelled against the applicant have been proved and he held the applicant guilty of the charges levelled against him. On the basis of the report of the Enquiry Officer, the respondent No. 2 i.e. the disciplinary authority has passed the impugned order dated 29.08.2017 and has stopped one increment of the applicant for three years permanently. Admittedly, the applicant has challenged the order passed by the disciplinary authority before the appellate authority i.e. the respondent No. 3 by preferring an appeal. The respondent No. 3 decided the appeal after giving an opportunity of hearing to the applicant on 30.06.2018 and allowed the appeal and modified the order passed by the respondent No. 2 i.e. the disciplinary authority and reduced the sentence and withhold one increment

of the applicant for one year without cumulative effect subject to decision and outcome of Criminal Case No. 83/2013.

6. Learned Advocate for the applicant has submitted that the appellate authority has observed in its judgment that no charges have been proved against the applicant and therefore, he quashed the order passed by the disciplinary authority on 29.08.2017. He has submitted that in spite of that the appellate authority has imposed the punishment on the applicant and withhold his one increment for one year subject to decision and outcome of Criminal Case No. 83/2013. He has submitted that the sentence imposed by the appellate authority is perverse to the findings recorded by it. Therefore, he has prayed to quash and to set aside the impugned order dated 30.06.2018 and communication dated 10.07.2018 issued by the respondent Nos. 3 and 2 respectively and prayed to exonerate the applicant from the charges levelled against him by allowing the present Original Application.

7. Learned Advocate for the applicant has further submitted that the principles of natural justice have not been followed by the Enquiry Officer, as well as, by the Appellate Authority while conducting the departmental enquiry and

deciding the appeal. Therefore, he has prayed to quash and set aside the impugned orders on that ground also.

8. Learned Presenting Officer has submitted that the enquiry officer, as well as, appellate authority had given opportunity of hearing to the applicant. The respondents have followed the principles of natural justice while conducting the departmental enquiry and deciding the appeal. There is no illegality in the impugned orders and therefore, he supported the orders passed by the enquiry officer, disciplinary authority and appellate authority. He has submitted that the appellate authority has held that the applicant's behavior was against the official discipline and it amounts misconduct and therefore, he held him guilty, but reduced the punishment imposed by the disciplinary authority by allowing the appeal. He has submitted that the appellate authority has observed that the said incident does not amount negligence in discharging his duties, but it amounts misconduct and therefore, the appellate authority has rightly passed the impugned order. There is no illegality in the impugned orders and therefore, he supported the same.

9. On perusal of the record and considering the submissions advanced by both the parties, it reveals that in the Departmental Enquiry, an opportunity of hearing was given to

the applicant. The applicant has filed his statement of defence to the charges levelled against him. The witnesses have been examined by the disciplinary authority. An opportunity to cross examine the witness was given to the applicant and thereafter, the enquiry officer submitted his report to the disciplinary authority. Considering the report and findings of the enquiry officer, the disciplinary authority has passed the order imposing punishment on the applicant on 29.08.2017. The applicant has challenged the said order passed by the respondent No. 2 before the respondent No. 3 by preferring an appeal. In the appeal, an opportunity of hearing was given to the applicant. On going through the judgment/order passed in the appeal dated 30.06.2018, it reveals that the appellate authority had given sufficient opportunity of hearing to the applicant and he has followed the principles of natural justice and after scrutiny of the evidence adduced in the enquiry, he has held that the act of the applicant does not amount negligence in discharging duties, but the said act amounts misconduct, as the alleged incidence of beating to Shri B.B. Ranit by the applicant took place in the office premises and therefore, he modified the punishment order issued by the respondent No. 2 and reduced punishment and withheld one increment of the applicant for one year without cumulative effect subject to decision and outcome of Criminal

Case No. 83/2013. There was no illegality on the part of the respondent No. 3 while deciding the appeal and therefore, I do not found substance in the submissions advanced by the learned Advocate for the applicant in that regard. The appellate authority has imposed the punishment on the applicant subject to decision and outcome of Criminal Case No. 83/2013. The applicant has got an opportunity to approach the disciplinary authority or concerned authority after conclusion of the Criminal Case No. 83/2013. Therefore, in my view, there is no illegality in the impugned order. Hence, no interference in it is called for. There is no merit in the present O.A. Consequently, the O.A. deserves to be dismissed.

10. In view of the discussions in the foregoing paragraphs, the Original Application stands dismissed with no order as to costs.

PLACE : AURANGABAD.
DATE : 05.09.2019.

(B.P. PATIL)
ACTING CHAIRMAN

KPB S.B. O.A. No. 681 of 2018 BPP 2019 Minor Punishment