

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

**ORIGINAL APPLICATION NO. 867 OF 2019  
(Subject – Minor Punishment)**

**DISTRICT : AURANGABAD**

**Shri Rajkumar S/o Saysing Padvi,** )  
Age : 35 years, Occu. : Service as Police Inspector,) )  
CID Crime, Aurangabad, ) )  
R/o. G.R.B. Kesar, Row House No. A1, ) )  
Gat No. 10 Behind Balaji Hospital, Satara ) )  
Parisar, Aurangabad, Tq. & Dist. Aurangabad.) .... **APPLICANT**

**V E R S U S**

- 1. The State of Maharashtra,** )  
Through it's Additional Secretary, )  
Home Department, Mantralaya, )  
Madam Kama Road, Mumbai -32. )
- 2. The Commissioner of Police,** )  
Aurangabad City, Mill Corner, )  
Aurangabad. ) ... **RESPONDENTS**

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**APPEARANCE** : Shri I.D. Maniyar, Advocate for the Applicant.

: Shri D.R. Patil, Presenting Officer for  
Respondents.

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**CORAM** : **SHRI V.D. DONGRE, MEMBER (J).**

**DATE** : **05.09.2022.**

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**O R D E R**

1. The present Original Application is filed challenging the impugned minor punishment order of withholding one annual

increment without cumulative effect dated 03.12.2013 (Annexure A-9) issued by the respondent No. 2 i.e. the Commissioner of Police, Aurangabad City, Aurangabad and also further impugned order dated 24.08.2016 (Annexure A-11) issued by the respondent No. 1 i.e. the State of Maharashtra confirming in departmental appeal of withholding one annual increment without cumulative effect imposed by the respondent No. 2.

2. The facts in brief giving rise to this application can be stated as follows :-

(a) The applicant was initially appointed as Police Constable vide order dated 01.04.2004 (part of Annexure A-1 collectively). Thereafter, by the Departmental Examination, the applicant was selected as Police Sub-Inspector vide order dated 29.07.2011 (part of Annexure A-1 collectively). The applicant thereafter after completion of training got posting as Police Sub-Inspector at Aurangabad City and joined on 01.05.2012. Further posting was given to him at Mukundwadi Police Station on 03.05.2012 as per the orders of posting dated 24.04.2012 and 03.05.2012 (Annexure A-2 collectively) respectively. The applicant was awarded 19 times during his service tenure till then.

(b) It is further submitted that while posted at Police Station Mukundwadi, one Sow. Kiran Sanjay Sarode lodged complaint dated 10.04.2013 alleging that she was looted by three Policemen. The said news was published in daily Newspaper Samana. Preliminary Enquiry was conducted by the Assistant Police Commissioner, Cidco Division, Aurangabad in respect of the said incident. In the said preliminary enquiry, the applicant was totally exonerated as per the Enquiry Report dated 13.06.2013 (Annexure A-3), as the complainant therein apologized about alleged complaint made out of misunderstanding.

(c) It is further submitted that in spite of the said preliminary enquiry report dated 13.06.2013 (Annexure A-3), the respondent No. 2 issued show cause notice dated 08.08.2013 (part of Annexure A-4 collectively) asking the applicant as to why his probation period should not be extended for one year, as the applicant was responsible for defaming the Police Department in respect of news item published in daily Newspaper Samana and also threatening the Police Inspector, when the memo was issued to the applicant about his work at the Police Station. The

applicant submitted his detailed reply dated 13.08.2013 (part of Annexure A-4 collectively, page Nos. 30 to 33 of the paper book) denying all the allegations levelled against him and stating that there is no evidence to substantiate the said allegations.

(d) It is further submitted that thereafter the respondent No. 2 again issued show cause notice dated 19.08.2013 (Annexure A-6) on the same footing and to show cause as to why his one annual increment should not be withheld for such misconduct, to which the applicant submitted his detailed reply dated 23.08.2013 (Annexure A-7).

(e) It is further submitted that the respondent No. 2 thereafter withdrew / cancelled the previously issued show cause notice dated 08.08.2013 (Annexure A-4) and issued show cause noticed dated 21.10.2013 (part of Annexure A-8 collectively) on the same footing and to show cause the applicant as to why his two annual increments should not be withheld. The applicant submitted detailed reply dated 02.11.2013 with documents i.e. extract of station dairy (part of Annexure A-8 collectively, page Nos. 41 to 47 of the paper book).

(f) It is further submitted that thereafter the respondent No. 2 without giving any opportunity of hearing and without considering the explanation given by the applicant and documents on record passed the impugned order of punishment dated 03.12.2013 (Annexure A-9), thereby withholding one annual increment of the applicant without cumulative effect.

(g) Thereafter, the applicant preferred departmental appeal memo on 18.01.2014 (page Nos. 50 to 55 of the paper book, part of Annexure A-11 collectively) against the said order of punishment dated 03.12.2013 before the respondent No. 1 i.e. the State of Maharashtra supported with documents. However, without considering the contentions raised by the applicant in the said appeal memo supported by documents, the respondent No. 1 passed further impugned order dated 24.08.2016 (Annexure A-11) confirming the impugned order dated 03.12.2013 (Annexure A-9) issued by the respondent No. 2.

(h) It is further contended that the applicant immediately preferred review application against the above-said orders of punishment on 23.12.2016 (Annexure A-12). However,

the said review is not decided by the respondents till filing of the present Original Applications.

(i) In view of above, it is the contention of the applicant that the impugned orders are illegal being passed without considering the contentions raised by the applicant in his explanations supported with documents and the same are liable to be quashed and set aside. Hence, the present Original Application.

3. The present Original Application is resisted by the respondent Nos. 1 and 2 by filing affidavit in reply by one Shri Gunaji Sadashivrao Savant, working as Assistant Commissioner of Police, Chawani Division, Aurangabad, thereby he denied all the adverse contentions raised in the Original Application and specifically submitted that the complaint was lodged by aggrieved woman against the applicant and two other Policemen, while the applicant was working during his probation period at Mukundwadi Police Station and because of such incident, disreputable news was published in daily newspaper, which caused harm to the Police reputation. Such behavior of the applicant as Policeman is not desirable and therefore, minor punishment is rightly imposed upon the applicant by taking into

consideration the explanation submitted by him, which explanation is not satisfactory.

4. The applicant filed rejoinder affidavit denying the adverse contentions raised in the affidavit in reply and reiterating the contentions raised in the Original Application.

5. I have heard the arguments at length advanced by Shri I.D. Maniyar, learned Advocate for the applicant on one hand and Shri D.R. Patil, learned Presenting Officer for the respondents on the other hand.

6. Considering the rival contentions on record, it is evident that the applicant is working in Police Department. The impugned punishment order dated 03.12.2013 (Annexure A-9) is issued by the respondent No. 2, which can be said to be issued by invoking the powers under Rule 3(2)(v) and Rule 4 of the Bombay Police (Punishment and Appeals) Rules, 1956, which is as under :-

*“3 (2) The following punishments may also be imposed upon any Police Officer if he is guilty of any breach of discipline or misconduct or of any act rendering him unfit for the discharge of his duty which does not require his suspension or dismissal or removal: -*

- (i).....*
- (ii).....*
- (iii).....*

- (iv).....  
 (v) Stoppage of increments.

4. (1) No punishment specified in clause (a-2), (i), (i-a), (ii), and (iii) of sub-rule 3 shall be imposed on any Police officer unless a departmental inquiry into his conduct is held and a note of the inquiry with the reasons for passing an order imposing the said punishment is made in writing under his signature.

(2) Without prejudice to the foregoing provisions, no order imposing the penalty specified in clauses (i), (ii), (iv), (v), and (vi) of the sub-rule 3 on any Police Officer shall be passed unless he has been given an adequate opportunity of making any representation that he may desire to make, and such representation, if any, has been taken into consideration before the order is passed:

*Provided that, the requirements of this sub-rule may, for sufficient reasons to be recorded in writing, be waived where there is difficulty in observing them and where they can be waived without injustice to the officer concerned.*

*Note—The full procedure prescribed for holding departmental inquiry before passing order of removal need not be followed in the case of a probationer discharged in the circumstances described in paragraph (4) of the Explanation to rule 3. In such cases, it will be sufficient, if the probationer is given an opportunity to show cause in writing against the discharge after being appraised of the grounds on which it is proposed to discharge him and his reply (if any) is duly considered before orders are passed.]”*

7. Considering the above-said provisions, it was incumbent upon the respondent No. 2, the disciplinary authority to consider the explanations / representations made by the applicant and similarly, it was also incumbent upon the respondent No. 1 to



appreciate the said explanation and documents, if any placed on record by the applicant.

8. In view of above-said legal positions, if the impugned punishment order dated 03.12.2013 (Annexure A-9) issued by the respondent No. 2 and the impugned order dated 24.08.2016 (Annexure A-11) issued by the respondent No. 1 confirming the order of punishment in departmental appeal dated 03.12.2013 are considered, it is evident that it is merely stated in the order dated 03.12.2013 that the explanation given by the applicant is not proper and non-considerable. There is no analysis of facts pleaded by the applicant in the explanation together with the documents. Same is the case with the order passed in departmental appeal, whereby it is merely observed that the explanation is not satisfactory or proper and non-considerable and is not sufficient to rebut the allegations.

9. It can be further noted that one allegation levelled against the applicant was about written complaint filed by one woman against three Policemen including the applicant. In this regard, the applicant has produced on record a copy of preliminary enquiry report dated 13.06.2013 (Annexure A-3) submitted by the Assistant Commissioner of Police, CIDCO, Aurangabad

exonerating the applicant of the said complaint. It is true that the news item was published in respect of the said complaint in Samana daily newspaper. However, once the applicant is exonerated of the said alleged misconduct, only because news item was published relating to the Police Department does not mean that it was because of the applicant. As regards other allegation of not following the instructions / orders of superiors, the documentary evidence by way of extracts of station dairy are produced by the applicant, which are not considered and contentions raised by the applicant are also not considered. In fact, no plausible reasons have been given by the respondents behind passing of both the impugned orders. In the circumstances as above, in my considered opinion, when the explanation given by the applicant is not at all considered by the respondents by giving reasons, the principles of natural justice cannot be said to have been made observed in this case. In view of the same, both the impugned orders are not in accordance with the law and therefore, the same are liable to be quashed and set aside. Hence, I proceed to pass following order :-

**ORDER**

The Original Application No. 867 of 2019 is allowed in following terms :-

(A) The impugned punishment order dated 03.12.2013 (Annexure A-9) issued by the respondent No. 2 i.e. the Commissioner of Police, Aurangabad City, Aurangabad and further impugned order dated 24.08.2016 (Annexure A-11) issued by the respondent No. 1 i.e. the State of Maharashtra confirming the order of punishment in departmental appeal dated 03.12.2013 are hereby quashed and set aside.

(B) There shall be no order as to costs.

**PLACE : AURANGABAD.**  
**DATE : 05.09.2022.**

**(V.D. DONGRE)**  
**MEMBER (J)**

**KPB** S.B. O.A. No. 867 of 2019 VDD Minor Punishment