

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 350 OF 2018

DISTRICT : MUMBAI

Shri Vasant Shamrao Utikar)
Central Railway Quarters No. MS/RB/)
II/303/30, 3rd floor, Nurses Quarters,)
Dr B.R Ambedkar Hospital Campus,)
Dr. B.A Road, Opp. Rani Baug,)
Byculla [E], Mumbai – 27.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Finance Department, Mantralaya,))
Mumbai.)
2. The Commissioner of Sales Tax)
8th floor, Sales Tax Bhavan,)
Mazgaon, Mumbai – 10.)
3. Special Commissioner of Sales,)
3rd floor, Sales Tax Bhavan,)
Mazgaon, Mumbai – 10.)...**Respondents**

Shri S.A Ghamre, learned advocate for the Applicant.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : **Shri P.N Dixit (Vice-Chairman) (A)**

DATE : **27.09.2019**

ORDER

1. Heard Shri S.A Ghamre, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

2. The applicant was working under the establishment of Respondent no. 2 (Commissioner of Sales Tax). Departmental Enquiry was held against him and orders punishing him have been issued on 17.4.2017, (Exh. 'I', page 211-221). By this order his increment was stopped for a period of one year.

3. The applicant filed an appeal against the same before the Appellate Authority. After giving him personal hearing and examining the relevant material on record, the Appellate Authority has issued order on 5.10.2017 confirming the order issued earlier (Page 259).

4. The applicant aggrieved by the above impugned orders has prayed to quash and set aside the impugned orders dated 17.4.2017 and 5.10.2017 (Para 10 (a), page 17 of the O.A).

5. The applicant has mentioned that principles of natural justice are violated in completing the enquiry and he has been held guilty for the opinions recorded by the Enquiry Officer. He further submits that the evidence furnished by him was not considered. The applicant further submits that he was not even remotely connected with the news published in the News Paper and it is based on guess work.

6. Respondent no. 1 has filed his affidavit in reply contesting the submission made by the applicant. The relevant paragraphs are reproduced below:-

“4.9 In the Departmental Enquiry conducted against the applicant, in all 12 charges were framed against the applicant. As per the report of the Enquiry Officer, three charges namely charge no. 1, 2 and 9 are proved. After taking into consideration the submissions of the applicant punishment order dt. 17.04.2017 was issued and punishment of “withholding with next increment

for one year with permanent effect” was imposed. The order of punishment dt. 17.04.2017 is confirmed in appeal order dt.05.10.2017.

(Quoted from page 265 of the O.A)

9.1 The case laws referred by the applicant are not applicable to the present case, since the determination of the enquiry officer is well reasoned and it has taken into consideration the argument made by the applicant. Both the authorities have dealt with the arguments and the case laws cited by the applicant in support of his say and defense.

(Quoted from page 271 of the O.A)

21.2 Information given by the applicant is published by the newspaper in the form of news without much modification or without expressing editor’s opinion. The news appearing in the newspaper reads as under-

“महाराष्ट्र राज्य माहिती आयुक्त रत्नाकर गायकवाड यांनी श्री.जे.एम.राऊत या माहिती अधिका-याने माहिती देण्यास नकार दिल्यामुळे निश्चित शिस्तभंगाची नियमानुसार कार्यवाही करण्याचे आदेश देवूनही हे प्रकरण विक्रीकर आयुक्तांकडून दडपून टाकून बंद केले असल्याची तक्रार, तक्रारदार श्री. वसंत उटीकर (विक्रीकर निरीक्षक) यांनी माहिती आयोगाकडे केल्याचे स्वतंत्र माहितीचा अधिकाराला दिलेल्या पत्रकातून कळविले आहे.
श्री. उटीकर यांनी पत्रात नमूद केले आहे की, श्री.जे.एम. राऊत, माहिती अधिकारी
..... हे प्रकरण विक्रीकर आयुक्तानी दडपून टाकून बंद केले असल्याचेही उटीकर यांनी दिलेल्या तक्रारीत नमूद केले आहे.”

21.3 The news itself make mention that the information / letter was provided / written by the applicant. From the above it can be clearly seen that the editor has not expressed any of his views / opinion and has merely published the content of the letter it received from the applicant.

(Quoted from page 278 of the O.A)

7. The affidavit in reply further mentions that the applicant was provided adequate opportunity to represent his case as well as cross examine the witnesses. The applicant was also given personal hearing by the Disciplinary Authority as well as by the Appellate Authority. The impugned orders make a mention regarding the same. The Respondents therefore submits that the Original Application is without any merit and the same deserves to be dismissed.

Observations and findings:-

8. I have seen the charges levelled against the applicant, his reply, the impugned orders passed by the Disciplinary Authority as well as by the Appellate Authority. Perusal of the same reveals that the D.E has

been completed as per the procedure and the applicant had no complaints regarding the same at any stage. He had adequate opportunity to cross examine the witnesses and he has done so. He was given opportunity to make his submission in writing as well as in oral. He has exercised the same. His contention therefore that the D.E is vitiated on account of lapses and violation of principles of natural justice is an afterthought and there is no substance regarding the same.

9. In view of the above and for the reasons stated, I find no merit in the Original Application and there is nothing on record to interfere with the orders issued by the Disciplinary Authority as well as Appellate Authority.

10. For the reasons stated above, the O.A is dismissed. No order as to costs.

(P.N Dixit)
Vice-Chairman (A)

Place : Mumbai
Date 27.09.2019
Dictation taken by : A.K. Nair.