

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 895 of 2020 (S.B.)**

Kailas Mahadeorao Mahure,  
Aged 56 years, Occ. Service (Police Constable 113),  
R/o P.S. Talegaon, Dist. Wardha.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Home Department,  
Mantralaya, Mumbai-32.
- 2) Director General of Police, Mumbai.
- 3) Special Inspector General of Police,  
Nagpur Range, Nagpur.
- 4) Superintendent of Police, Wardha, Dist. Wardha.

**Respondents.**

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**S/Shri Amol Mardikar, A.R. Sharma, Advocates for the applicant.**  
**Shri M.I. Khan, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated :- 10/08/2022.**

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**JUDGMENT**

Heard Shri Amol Mardikar, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. The applicant is working as a Police Constable. He was on duty on 02/10/2006 for the security purpose in respect of election of Gram Panchayat. He was posted at Tahsil Office, Karanja.

3. The respondents issued charge sheet against the applicant alleging that on 02/10/2006 he was not found on duty at Tahsil Office, Karanja. The offence punishable under Sections 354,506 & 294 of IPC was registered against the applicant. On these two charges the respondents have started the departmental inquiry. After conclusion of the departmental inquiry, the respondents have imposed punishment of stopping of two increments.

4. The applicant preferred appeal before the Special Director General of Police, Nagpur (R/3). The said appeal was partly allowed. The punishment order was modified and punishment of stoppage of increment of one year was imposed, instead of two increments. Hence, the applicant approached before this Tribunal by filing the present O.A.

5. The O.A. is strongly opposed by respondents. It is submitted that charges are proved, therefore, proper punishment order is passed.

6. It is submitted by learned counsel for applicant Shri Amol Mardikar that the applicant was present on duty at Tahsil Office, Karanja on 02/10/2006.

7. The learned counsel for applicant has pointed out explanation of the applicant along with copies of Station Diary etc.

dated 01/10/2006 and 02/10/2006. He has also pointed out copies of Judgment in Criminal Case No.72/2007, decided by the Judicial Magistrate, First Class, Ashti, District Wardha dated 17/02/2011. The learned counsel for applicant submitted that both the charges are not proved and therefore the punishment impugned by the respondents is not proper.

8. Heard learned P.O. Shri M.I. Khan. He has submitted that applicant was not on duty on 02/10/2006. On the same day the offence punishable under Sections 354, 294 & 506 of IPC was registered against the applicant. The complainant in that criminal case turned hostile and therefore he was acquitted. The learned P.O. has submitted that the applicant not cross examined the witnesses. He cannot say that charges are not proved. Hence, the O.A. is liable to be dismissed.

9. The departmental inquiry against the applicant was initiated on two grounds (1) he was not on duty on 02/10/2006 at Tahsil Office, Karanja (2) the offence punishable under Sections 354, 294 & 506 of IPC was registered against the applicant.

10. In respect of absence from duty on 02/10/2006, the applicant had given explanation along with copies of Station Diary entries. The Station Diary entries dated 01/10/2006 and 02/10/2006 show that the applicant, i.e., the Head Constable Buckle No.123 was

found on duty. The entry dated 02/10/2006 in the Station Diary shows that the Police Inspector Shri Kuhikar while on patrolling duty, he found the applicant, i.e., Head Constable Buckle No.123 along with Police Constable Buckle No.670 were present in the Tahsil Office. This entry shows that the applicant was present in the Tahsil Office.

11. In respect of offence punishable under Sections 354, 294 & 506 of IPC, the Judicial Magistrate, First Class, Ashti, District Wardha recorded its finding that the complainant / victim not supported the case of prosecution. She did not identify the accused before the Court. Therefore, accused / applicant came to be acquitted for want of evidence.

12. It appears from the Judgment in Criminal Case No.72/2007, the applicant was not involved in the criminal case / criminal offence and therefore he is acquitted. Had it been the fact that the victim / complainant would have been identified the applicant before the Court. Therefore, the charges in respect of offence punishable under Sections 354, 294 & 506 of IPC are not proved.

13. The charge in respect of absenteeism is also not proved. The copy of Station Diary entry dated 02/10/2006 shows that the applicant was present on duty at Tahsil Office. Hence, the punishments imposed by the respondent no.4 and modified by respondent no.3 are liable to be quashed and set aside.

14. The learned P.O. Shri M.I. Khan has pointed out the Judgment of Hon'ble Supreme Court in the case of **Jaswant Singh, Vs. Union of India through Secretary Ministry of Home Affairs, New Delhi & Ors., (2015) SCC online CAT 246.** The Hon'ble Supreme Court in para-14 has held as under –

*“Considering the above legal and factual position that this Court cannot interfere with the decision of the Disciplinary Authority on quantum of punishment, we are left with no other option but to dismiss the present O.A. being devoid of any merit as the penalty is not found to be disproportionate”.*

15. In view of the cited decision, this Tribunal cannot interfere in the decision of disciplinary authority, but it is clear that the punishments imposed by the respondents are not proper and legal. Hence, the following order –

**ORDER**

- (i) The O.A. is partly allowed.
- (ii) Impugned punishment order is quashed and set aside.
- (ii) The respondents are directed to take proper decision.
- (iii) No order as to costs.

**Dated** :- 10/08/2022.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

\*dnk.

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 10/08/2022.

Uploaded on : 11/08/2022.

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