

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR.**

**ORIGINAL APPLICATION NO. 346/2003.**

Tanaji Raoji Dudhbale,  
Aged about 34 years,  
Occupation-NIL,  
R/o Bodaldand, Post-Maseli,  
Tq. Korchi, Distt. Gadchiroli.

**Applicant.**

**-Versus-**

1. The State of Maharashtra  
Through its Secretary,  
Home Department,  
Mantralaya, Mumbai-32.
2. The Director General of Police,  
(M.S.), Mumbai.
3. Dy. Inspector General of Police,  
Nagpur Region, Nagpur.
4. Superintendent of Police,  
Gadchiroli.

**Respondents.**

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**Shri A.P. Mamdalwar, the learned counsel for the applicant.  
Mrs. M.A. Barabde, the Ld. P.O. for the respondents.**

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**Coram:- The Hon'ble Shri Justice A.P.Deshpande  
Vice-Chairman and  
The Hon'ble Shri B. Majumdar,  
Member (A)**

**Dated:- 17<sup>th</sup> January 2013.**

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Oral order

Per-Vice-Chairman

Shri A.P. Mamdalwar, the learned counsel for the applicant files only the notes of arguments on record. Heard Mrs. M.A. Barabde, learned P.O. for the respondents.

2. The applicant was initially appointed to the post of Police Constable in the year 1989. At a later point of time, the applicant was posted on Guard duty at Gadchiroli. The applicant had unauthorizedly remained absent for a period of more than one year i.e. from 14.8.1993 to 8.12.1994. It is the case of the respondents that the applicant disappeared from duty without even depositing the arms and ammunitions at Sub-Jail, where he was supposed to deposit the same. On noticing the prolonged unauthorized absence of the applicant, though he was posted as a Guard in sensitive Naxalite Affected Area, the applicant came to be served with a chargesheet wherein

the following charges of misconduct are levelled against the applicant:-

“१.आपण दिनांक १४.०८.१९९३ पासून ०८.१२.१९९४ पावेतो कोणत्याही प्रकारची पूर्वसूचना न देता कर्तव्यावर अनाधिकृतपणे गैरहजर राहिले.

२.आपण कर्तव्याप्रती अनास्था दाखवून गैरहजर राहिले म्हणजेच भ्याडपणा दाखविला.

३.सबजेल गडचिरोली येथे गार्ड ड्युटी लावली होती तेव्हा ऑर्म ॲम्युनेशन संबंधित शाखेत जमा न करता परस्पर निघून गेलेत व गैरहजर राहिले. अशाप्रकारे आपणांस गडचिरोली जिल्हा हा नक्षलग्रस्त आहे असे माहिती असूनसुद्धा आपण कर्तव्यावर अनाधिकृतपणे गैरहजर राहून निष्काळजीपणा बेजबाबदारपणा केला व भ्याडपणा दाखविला’.

The applicant was also supplied the relevant documents to be relied upon on behalf of the respondents alongwith a copy of list of witnesses. Though, the applicant was called upon to respond to the said charges, the applicant chose not to file any reply to the chargesheet. An Inquiry Officer was appointed to conduct the enquiry. Perusal of the Inquiry Report reveals that initially the applicant did appear before the Inquiry Officer and sought an adjournment with a view to engage a friend to represent

him in the enquiry. However thereafter, he informed the Inquiry Officer that he could not find anyone who was willing to act as a friend for the applicant in the enquiry and as such gave a letter to the Inquiry Officer that the Inquiry Officer himself should properly consider the charges. It is observed in the Inquiry Report that the applicant admitted the charges during the enquiry and by filing communication dated 19.8.1995, intimated his unwillingness to serve in the Police Department, as can be seen from the subject mentioned in the said communication. The letter dated 19.8.1995 bears the following subject:-

“माझी मनस्थिती बरोबर नसल्यामुळे मी पोलिस खात्यात नौकरी करू इच्छित नाही बाबत”.

Fact remains that the applicant did not participate in the Inquiry Proceedings. The Inquiry Officer, after considering the documents on record, reached a finding that the charges of misconduct levelled against the applicant are proved and as such proposed punishment of removal from service. After receiving the report of the Inquiry Officer, the Disciplinary Authority, by communication

dated 11.3.1996 furnished a copy of the Inquiry Report to the applicant by issuing a show cause notice as to why the punishment of removal from service be not imposed on the applicant. The applicant did reply the said show cause notice admitting the unauthorized absence and as such an order of punishment of removal from service came to be passed. Aggrieved thereby, the applicant preferred a departmental appeal so also review application. However, the same came to be rejected and as such the present O.A. has been filed.

3. Perusal of the document at Annexure A-7 record page 23, which is a letter addressed by the applicant to the Director General of Police (M.S.), Mumbai dated 24.5.1996/5.6.1996, clearly reveals the stand of the present applicant inasmuch as it is clearly admitted in the said letter that the applicant unauthorizedly remained absent from 14.8.1993 to 8.12.1994. The reason assigned in the said letter for remaining absent is ill health of the applicant's father and mental stress of the applicant. We are

referring to the said communication just to bring home the fact that the applicant has not only failed to reply the chargesheet, but as a matter of fact admitted the unauthorized absence in the said letter and <sup>made</sup> making a request for reinstatement.

4. The learned counsel for the applicant has filed short notes of arguments on record wherein three points are urged. In the first place, according to the applicant, he was not supplied the copy of the Inquiry Report. The said ground is obviously an afterthought for the reason that at no point of time did the applicant make any grievance to any of the authorities about non supply of copy of the Inquiry Report. The show cause notice of punishment records categorically in para No.5 that the copy of the Inquiry Report is annexed to the same. The applicant, though <sup>he</sup> replied the show cause notice, did not dispute the fact that alongwith the show cause notice, copy of the Inquiry Report was also supplied to him. In this reply

as well, the applicant has admitted his unauthorized absence from duty.

5. The next ground urged is that the relevant documents were not supplied to the applicant. Having regard to the nature of the charge, there would be hardly any documentary evidence, more so when the applicant categorically admitted that he remained absent unauthorizedly. The chargesheet itself mentions that the relevant documents alongwith the statement of witnesses are supplied to the applicant. The applicant did not demand any documents from the Inquiry Officer nor did he make any complaint about non receipt of any documents. The ground raised is also very vague and does not mention as to which document the applicant did not receive, which in turn had a bearing on establishing the misconduct. Lastly yet again a vague contention is raised that the enquiry was not conducted in adherence to the principles of natural justice. From the record, it is crystal clear that the applicant himself never participated in the

enquiry and nor did he dispute the fact that he remained absent unauthorizedly for a period of more than one year and three months.

6. The applicant's absence has been seriously viewed as he was assigned the Guard duty in a sensitive Naxalite Affected Area. All throughout, it has been the case of the applicant that as he was mentally disturbed, he had unauthorizedly remained absent for a long period. However, the applicant has failed to produce any material before the Inquiry Officer to substantiate his mental disturbance or illness, which allegedly prevented the applicant from diligently performing the duty. In the absence of any evidence having been led by the applicant in the enquiry, it is not possible to hold that the applicant's unauthorized absence from duty, was on account of his mental disturbance or mental illness. We do not find any fault on the part of the respondents in holding that the charges of misconduct are proved and in punishing the applicant with removal from service. As there is no merit in



the O.A., the same stands dismissed, however, with no order as to costs.

Sd-

(B. Majumdar)  
Member (A)

Sd-

(Justice A.P. Deshpande)  
Vice-Chairman

Pdg