

ORDER**PER MEMBER (J)**

The applicant, M.S. Kasettiwar has challenged the order dtd. 31/7/2013 passed by Respondent No. 4, the Superintendent of Police, Gadchiroli, whereby the applicant has been punished in the departmental enquiry. The said final order of punishment is as under :-

“ पोहवा/९४१ मलय्या सामय्या कासेटीवार नेमणुक पोलीस मदत केंद्र मरपल्ली यांना मुंबई पोलीस (शिक्षा आणि अपिले) नियम १९५६ च्या ३ (१)(२)चे तरतुदीनुसार हा आदेश प्राप्त झाल्याच्या तारखेपासून सक्तीने सेवानिवृत्त () ही शिक्षा देण्यात येत आहे.”

2. Against the order passed by the Respondent no. 4 as aforesaid, the applicant has preferred an appeal to the Deputy Inspector General of Police, Gadchiroli i.e. Respondent no. 3. The said appeal came to be dismissed vide order dtd. 22/11/2013 and the Respondent no. 3 was pleased to maintain the order passed by the Respondent no.4.

3. Being aggrieved by the order dtd. 22/11/2013 passed in Appeal by the Respondent no. 3, the applicant filed review petition before the Respondent no. 2 i.e. the Director General of Police, Mumbai and the said review petition also came to be dismissed by the Respondent no. 3 vide order dtd. 12/6/2015. The applicant is claiming that all these orders passed by the Respondents no. 4, 3 and 2 as aforesaid be quashed and set aside and the applicant be reinstated on the post of Police Head Constable.

4. From the facts emerged, it seems that at the relevant time i.e. 15/6/2012 the applicant was serving as a Police Head Constable in the Police Help Centre at Umanur camp, Marpalli, Tq. and Distt. Gadchiroli. The applicant applied for leave for four days since he wanted to go for marriage of his relative. The Police Sub-Inspector Shri S.R. Patil called the applicant and there was some dispute between the applicant and the Police Sub-Inspector Shri Patil. It is alleged that the applicant abused the Police Sub-Inspector Shri Patil in filthy language and rushed on his

person and also threatened him to beat. The said incident was reported by the Police Sub-Inspector Shri Patil to the superior authority and not only that Non-Cognizable Offence was registered against the applicant. On the basis of report lodged by the Police Sub-Inspector Shri Patil, departmental enquiry was initiated against the applicant. In the departmental enquiry conducted against the applicant Dr. Rahul Khade, the then Sub-Divisional Police Officer, Gadchiroli was appointed as the Enquiry Officer. On the basis of the report submitted by the Enquiry Officer, the applicant was served with show cause notice and finally the Superintendent of Police, Gadchiroli passed the order whereby the applicant was made to retire compulsorily. As already stated, the appeal and review against the said order of punishment were rejected and hence this O.A.

5. The affidavit-in-reply is filed by Respondent no. 4. The Respondent no. 4 admitted that the applicant was appointed as a Police Constable in 1993 and was promoted to the post of Police Head Constable in 2002. It is stated that

the applicant was in habit of threatening the superior officers and earlier also he was kept under suspension on 16/11/2010 and was inflicted with minor punishment.

6. As regards the incident dtd. 15/6/2012, it is stated that the applicant not only misbehaved with the superior officer but also abused and threatened him and also rushed on the person and the charges against the applicant were duly proved in the departmental enquiry.

7. We have heard the Id. counsel for the applicant Shri G.G. Bade and the Id. P.O. for the respondents Shri A.M. Khadatkar. We have also perused the various documents placed on record so also the affidavit and affidavit-in-reply.

8. The Id. counsel for the applicant submits that it is a case of no evidence and the appreciation of the evidence by the Enquiry Officer and the competent authority is perverse to the facts on record. It is stated that there are contradictions and omissions which are material and goes to the root of the case. The Enquiry Officer by suggesting punishment acted

contrary to the part I of Rule 448(22) of the Maharashtra Police Manual.

9. Even though it is mentioned that the relevant documents were not supplied to the applicant, there is nothing on the record to show that the applicant ever asked for any documents and that the same were not supplied to the applicant. From the record it seems that due enquiry was conducted against the applicant and full opportunity was given to the applicant to cross examine the witnesses.

10. Since the Id. counsel for the applicant submits that it is a case of no evidence and that the appreciation of evidence is perverse to the facts on record, we also perused the enquiry report and the various documents placed on record.

11. Perusal of the enquiry report which is at Annexure-A-8, shows that the department has examined in all 6 witnesses viz., Police-Sub-Inspector Shantikumar Patil of Police Station Marpalli, Police-Sub-Inspector Pravin Devikisan

Tali, Police Head Constable,954 Sudhakar Lahuji Darro, Police Constable/2812 Shekhlal Suresh Madavi, Police Head Constable/1950 Vishwas Shedmake and Police Shipai/2874 Ashok Kadiwar. Perusal of the evidence of these witnesses shows that the applicant quarreled with PSI Patil as PSI Patil told his inability to grant leave immediately to the applicant as there was shortage of police force. It seems that he asked the applicant to wait as on that ground there was quarrel and exchange of words between the applicant and PSI Patil. Not only that the applicant rushed on the person of Shri Patil and abused him in filthy language. This part of evidence has been corroborated by all of these witnesses examined on behalf of the applicant and not only that the said has been confirmed during the cross examination.

12. The Id. counsel for the applicant submits that some of the witnesses were not present at the time of incident and that they admitted that they have heard about the incident. Even for the argument's sake it is accepted that some of the witnesses heard about the behavior of the applicant, it is

cardinal rule of evidence in the departmental enquiries that even hearsay evidence is admissible. We do not find any reason for the witnesses to depose against the applicant.

13. Perusal of the report submitted by the Enquiry Officer clearly shows that the Enquiry Officer has appreciated the evidence with a proper perspective and the said appreciation does not seem to be perverse to the facts on record. Full opportunity was given to the applicant to cross-examine the witnesses and to lead evidence in defence and therefore it cannot be said that the conclusions drawn by the Enquiry Officer in any manner are arbitrary or illegal.

14. It seems that while submitting the enquiry report the Enquiry Officer suggested punishment. However, merely because such punishment is suggested that itself will not mean that the competent authority was influenced by such suggestion.

15. We have also perused the order passed by the Respondent no. 4. The Respondent no. 4 before passing the

final order has also issued the show cause notice to the applicant and after hearing the applicant it has passed the order of compulsory retirement. The Id. counsel for the applicant submits that the punishment is harsh one. However, considering the fact that only on a minor cause that the leave was not immediately sanctioned to the applicant, the applicant rushed on the person of his superior and abused him in filthy language and also threatened him and such an attitude on the part of the Police Head Constable in police department is definitely serious. In fact, the competent authority has made the applicant to retire compulsorily and not dismissed the applicant and thereby had shown leniency. We are, therefore, satisfied that the order of punishment is not harsh.

16. We have also perused the order dtd.22/11/2013 passed by the appellate authority i.e. Respondent no. 3 and the order dtd. 12/6/2015 passed by the reviewing authority. In the said orders all the aspects of the case have been

considered with a proper perspective and we do not find any illegality in the said orders.

17. In view of the above discussion in the foregoing paras, we are satisfied that the order passed by the Respondent no. 4 dtd. 31/7/2013 whereby the applicant has been made to retire compulsorily is legal and proper and similarly the order passed by the Respondent no. 3 dtd. 22/11/2013 and by the Respondent no. 2 dtd. 12/6/2015 are also legal and proper and needs no interference. Hence we pass the following order :-

The O.A. is dismissed with no order as to costs.

(J.D. Kulkarni)
Member (J)

(Rajiv Agrawal)
Vice-Chairman.

Skt.