

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
NAGPUR BENCH AT NAGPUR.
ORIGINAL APPLICATION NO. 703 of 2014

Madhukar Babarao Ughade,
Aged about 52 years, Occ. Drawing Instructor,
R/o Shri Siddhavinayak Colony,
Saturna Complex, Amravati,
Tah. and Distt. Amravati.

----- APPLICANT

VERSUS

1. State of Maharashtra,
through its Principal Secretary,
Higher and Technical Education,
Mantralaya, Mumbai-32.
2. The Director (Training),
Vocational Education and Training,
3 Mahapalika Marg,
Mumbai.
3. Joint Director Vocational Education
And Training, Regional Office,
Amravati, Distt. Amravati. -----**RESPONDENTS**

-----Shri N. R.
Saboo, Counsel for Applicant.

Shri A. P. Potnis, P.O. for Respondents .

CORAM : S.S. Hingne : Member (J)

DATE : 18th March , 2016

ORDER

Feeling aggrieved by the order of punishment dtd. 9/6/2015 (A-A-14, page 52) and the appellate authority's order dtd. 10/6/2014(A-A-16) imposing the penalty of withholding 3 increments for 3 years, the applicant has filed this O.A.

2. Heard Shri N.R. Saboo, Id. Counsel for the applicant and Shri A.P. Potnis, Id. P.O. for the respondents.

3. The applicant at the relevant time was the President of the Union. The Joint Director (R/3) as per the official circular dtd. 23/2/2010 issued by higher authorities had to visit and inspect the places under their jurisdiction. As per the direction in the circular, the Joint Director had inspected and visited the places. That time the applicant instructed other employees to boycott by making protest and to agitate by shouting the slogans.

4. The Joint Director therefore issued the show cause notice dtd. 26/4/2010 (A-A-12, pg-40) to applicant along with the charges and called his explanation. The applicant submitted his explanation on 18/5/2010 (A-A-13, pg-43). Considering the explanation and not being satisfied with the same, the Director passed the order of punishment dtd. 9/6/2010 (Pg-51), withholding 3 increments for 3 years without effect

on future increments. The applicant preferred the appeal before the Director (A-A-15, pg-53). The Director vide order dtd. 10/6/2014, dismissed the appeal. Taking exception of these orders, the applicant approached the Tribunal.

5. The Id. Counsel for the applicant vehemently urged that the applicant was working as a President of the Union at the relevant time and whatever he did was for the interest and benefit of the employees at large. The applicant had made various representations but the same were went unheard. The disciplinary authority has not considered the aspect that the act of the applicant was directly connected with the activities of the Union but the applicant is held responsible in his personal capacity which is not legal. In support of submissions, reliance is placed on a case of Mohan Krishna Antrolkar –vs- Commissioner, Prohibition And State Excise . In this case the Excise Sub-Inspector was punished for lack of duties as he had not inspected the shops and collected the samples as required and therefore 93 persons were dead due to spurious liquor. His Lordship has observed that though there was direct nexus between the act of the applicant with the consequences of the incident, the applicant's negligence cannot be attributed for the incident. In view of this peculiar facts, His Lordship has observed that negligence

in discharge of duties, will not result in breach of maintaining absolute integrity unless there is clear evidence to show that negligence was conscious and deliberate.

6. In the case in hand, the Id. Counsel for the applicant urged that whatever the applicant did is in the capacity of the President and personally he cannot be rendered liable. As a President of the Union, the applicant can fight out for the acts of Union taking legal recourses in a peaceful manner. That does not mean that if an employee does any impermissible act, he can be exonerated on the ground that he did something in the capacity of a President of the Union. The allegation against the applicant is that he instigated the other members of the Union to make the protest by shouting and giving slogans when the Joint Director visited the place for inspection and other purposes. As a President, the applicant should have made the representation by taking appointment etc., but such recourse is not taken.

6. In the reply to the show cause notice and in this O.A. also the applicant has come with the above sole plea. The order of punishment is passed under Rule 10 of the Maharashtra Civil Services (Discipline and Appeal) Rules . The due opportunity was given to the applicant and his reply was called. The applicant has merely mentioned that ' he was not

given the opportunity' but the averments are vague. There is nothing on the record demonstrating that the applicant was not given due opportunity or the principles of natural justice are not followed in the enquiry or this was done with malice and malafides.

7. Needless to mention that the Tribunal cannot sit over as an appellate authority as considered in the case Union of India -vs- B.K. Srivastava (A.I.R. 1998 SC 300), wherein Their Lordships of the Apex Court of the Land clearly held that the Tribunal cannot sit in appeal against the orders of the disciplinary and appellate authorities. It has only to see whether the principles of natural justice and the general rules and regulations are followed in the proceedings, due opportunity is given to the applicant or whether there is any abuse of the power etc. No such case is made out by the applicant.

8. From the foregoing reasons, it is manifest that there is no merit in the case propounded by the applicant. The O.A. therefore stands rejected with no order as to costs.

(S.S. Hingne)
Member (J)

Skt.