

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.1236 OF 2022

**DISTRICT : NASHIK
SUBJECT : DISCHARGE FROM
SERVICE**

Mr. Ritesh Atmaram Patil,)
Age: 30 years, (DOB: 12.11.1993),)
Occu. Nil, discharged from the post of)
Police Constable.)
R/at. A-6, Mochiwada Corner, Malegaon Camp,)
Malegaon, Dist.: Nashik.)... **Applicant**

Versus

- 1) The State of Maharashtra,)
Through the Secretary (Appeal & security),)
Home Department, Mantralaya, Mumbai 32.)
- 2) The Commissioner of Police,)
for Mumbai Railway, Wadi Bandar,)
4th Floor, Area Manager Building,)
P.D. Mello road, Sandhurst Road,)
Near Central Railway Godown,)
Mazgaon, Mumbai.)... **Respondents**

Shri Kishor R. Jagdale, learned Advocate for the Applicant.

Ms. Swati P. Manchekar, learned Chief Presenting Officer for the Respondents.

**CORAM : JUSTICE MRIDULA R. BHATKAR, CHAIRPERSON
MEDHA GADGIL, MEMBER (A)**

DATE : 03.04.2023.

JUDGMENT

1. Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. The Applicant was appointed as Police Constable on 20.02.2019. However, he was discharged from the service by order dated 20.01.2022. The Applicant was on probation and before completing two years of his service he was discharged on the ground that his behavior was unbecoming of Police Personnel. Learned Advocate for the Applicant submits that the order is stigmatic and no reasons are mentioned specifically as to why he was discharged. Learned Advocate for the Applicant further submits that it is against the Rule of natural justice. He further submits that no D.E. was initiated and therefore the Applicant is challenging the impugned order.

3. Learned C.P.O. relies on Rule 4 of The Maharashtra Police (Punishment and Appeals) Rules, 1956. She submits that Show Cause Notice was given on 24.09.2021 (Page 47 of P.B.) before discharging the Applicant by order dated 20.01.2022. Learned C.P.O. further relies on note of Rule 4 and also Para 4 of explanation to Rule 3 of the said Rules. She further submits that the authority has power to discharge the probationer without holding any D.E. However, the probationer was given a Show Cause Notice in writing and he was given an opportunity to answer the Show Cause Notice that is sufficient to discharge him without holding D.E. after considering this Reply. Learned C.P.O. further submits that in the present case the Department has given Show Cause Notice on 24.09.2021 and he was given opportunity to Reply and his Reply was on the record of the authority, it was considered and found not satisfactory and thereafter he was discharged and appropriate procedure was followed. Considered submission, note of Rule 4 and also Para 4 of explanation to Rule 3 are reproduced:-

“Rules 4, Note.- The full procedure prescribed for holding departmental enquiry before passing an order of removal need not be followed in the case of probationer discharged in the circumstances described in paragraph (4) of the Explanation to rule 3. In each cases, it will be sufficient if the probationer is given an opportunity to

show case in writing against his discharge after being apprised of the grounds on which it is proposed to discharge him and his reply (if any) is duly considered before orders are passed.

Rule 3 (4) the discharge of a probationer, whether during or at the end of the period of probation, for some specific fault or on account of his unsuitability for the service amount to removal.”

4. We considered the reasons in the Show Cause Notice. When the proper procedure is followed, Tribunal is not required to interfere with any such order. However, if at all it is pointed out by the Applicant that the Show Cause Notice issued is on arbitrary, illegal or unfair grounds then in the interest of justice we need to interfere and then indulgence is invited. The criminal complaint in criminal case u/s.376(2)(N), 420, r/w Section 3(1)(r), 3(1)(w)(i)(ii), 3(2)(v)(va) of IPC is registered at Cr.142/2021 against the Applicant with Maval, Police Station, Pune (Rural). The Criminal case will take its own course. However after going through the reasons from the order discharging the Applicant, we are of the opinion that it was a love affair between the Applicant and one adult female constable. Both unmarried young constables fell in love with each other and were in relationship. Thereafter unfortunately the accused (Applicant) withdrew from the relationship on the ground of a caste issue raised by the Applicant's parents and that is why the girl was aggrieved and she in front of him consume poison and attempted to commit suicide. The Applicant himself immediately shifted her to the hospital and got her admitted and she was saved. However, she lodged a complaint in police station and police immediately filed compliant against the Applicant for rape, cheating and Atrocity Act. The girl thereafter married to some other person. According to disciplinary authority the Applicant was found at fault and was discharged from the services. No other reasonable ground was shown for discharging him from service. It is not a case that the Applicant was unsuitable. To fall in love with somebody and establish physical relationship with the consent is completely personal and private affair of two unmarried

adults. Rule 3 of the Maharashtra Civil Services (Conduct) Rules, 1979 states about the Duty of the Government servant to maintain integrity, devotion to duty, etc. There are in all 21 circumstances / instances stated & breach of such duty amounts to misconduct. However, in none of the circumstances a consensual sexual relationship / love affair in two unmarried adults is covered as a misconduct. Hence, it cannot be considered a stigma for the Police Department.

5. Hence, our interference in the said impugned order is required. We agree with the point raised by learned C.P.O. of 'No Work No Pay'.

6. In view of above, the Original Application is partly allowed with direction to the Respondents to reinstate the Applicant in service within a week from the date of uploading of the order. He is not entitle to receive salary of the period when he was not on work.

7. No order as to costs.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula R. Bhatkar, J.)
Chairperson

Place: Mumbai
Date: 03.04.2023
Dictation taken by: N.M. Naik.

Uploaded on: _____