

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

**ORIGINAL APPLICATION NO.302 OF 2018
[SUBJECT : STOPPAGE OF INCREMENTS (MINOR PUNISHMENT)]**

DISTRICT : MUMBAI

Vijaykumar Adhikrao Chavan,)
R/at.B/2, New Police Officers Quarters,)
N.M. Joshi Road,)
Mumbai 400 013) **..Applicant**

Versus

1. The State of Maharashtra,)
Through The Additional Chief Secretary,)
Home Department,)
Mantralaya, Mumbai 400 032.)
2. The Commissioner of Police,)
Mumbai, Opp. Crawford Market,)
Mumbai 400 001.) **..Respondents**

Shri A.R. Joshi, learned Advocate for the Applicant.

Smt. Archana B.K., learned Presenting Officer for the Respondents.

CORAM : Shri P.N Dixit, Vice-Chairman

RESERVED ON : 30.08.2019.

PRONOUNCED ON : 03.09.2019.

J U D G M E N T

1. Heard Shri A.R. Joshi, learned Advocate for the Applicant and Smt. Archana B.K., learned Presenting Officer for the Respondents.

2. After concluding the Departmental Enquiry (D.E.) the Applicant was inflicted with the punishment of staying the increment for the period of one year and this period of suspension was treated as such. The same has been modified by the Appellate Authority and punishment of reprimand has been imposed on him vide order dated 01.02.2018 (Exhibit A) page 21 to 25 of the O.A. The Applicant has prayed to quash the impugned order dated 01.02.2018.

3. The Applicant has furnished following grounds in support of the above prayers :-

- (a) The Applicant has been acquitted in the criminal case under Prevention of Corruption Act on merits.
- (b) The Applicant was not provided documents demanded by him before the D.E. started hence the principle of natural justice have been violated.
- (c) The judgment given by the Sessions Judge acquitting him is not being considered and hence conclusions are erroneous and illegal.

4. Learned Advocate Shri A.R. Joshi for the Applicant has relied on the following judgments in support of his submissions :-

(a) Judgments given by Apex Court in case of **Rajinder Kumar Kindra Versus Delhi Administration Through Secretary (Labour), Civil 2386 of 1984, decided on 1984 September 27.** According to the same, findings by the Enquiry Officer are based on conjectures and therefore the imposition of punishment is unjustified. The relevant portion of the same is as under :-

“16. It is thus well settled that where the findings of misconduct are based on no legal evidence and the conclusion is one to which no reasonable man would come, the arbitrator appointed under Sec.10-A or this Court in appeal under Art. 136 can reject such findings as

perverse. Holding that the findings are perverse does not constitute reappraisal of evidence, though we would have been perfectly justified in exercise of powers conferred by Sec.11A to do so.

17. It is equally well settled that where a quasi judicial tribunal or arbitrator records findings based on no legal evidence and the findings are either his ipse dixit or based on conjectures and surmises, the enquiry suffers from the additional infirmity of non-application of mind and stand vitiated."

(b) Judgments given by this Tribunal in O.A.No.1543 of 2009, Shri Sujat Ali Liyakat Ali Inamdar Versus The State of Maharashtra & 2 Ors, dated 06.02.2018.

Submissions by the Respondents :-

5. Respondents No.1 and 2 have filed affidavit-in-reply and contested the submissions made by the Applicant. The charge against the Applicant has been enquired into and Appellate Authority found the Applicant guilty of breach of discipline. There was a serious fault on behalf of the Applicant for not performing his duty properly, by not taking cognizance to record the complaint immediately and his administrative lapse has been proved. There was no *mala fide* in initiating the D.E. against him. The Applicant was arrested and prosecuted under the Prevention of Corruption Act and for administrative lapses in the D.E. The Applicant has been imposed punishment as he was found responsible for misconduct of administrative lapse.

6. Respondent No.2 in his affidavit-in-reply underlines that the charge-sheet against the Applicant in D.E. is not identical with the criminal case. The charge in D.E. against the Applicant that he was not available in the Police Station, where he was posted on duty is proved as he was brought in the Police Station after arrest.

7. Applicant has been provided all relevant documents in the D.E., hence, there is no violation of the principles of natural justice. Applicant was given personal hearing before completing the D.E.

8. Respondents have submitted that O.A. is devoid of any merit and the same may be dismissed.

FINDINGS :-

9. I have perused the record furnished by the learned Advocate Shri A.R. Joshi as well as judgment given by learned Sessions Judge and record of the Departmental proceedings. The D.E. against the Applicant is for administrative lapses as the Applicant delayed registering the complaint when it was his duty to do so. The fact that he was not in the Police Station and was at a distance and brought to the Police Station after arrest confirms the charge against his dereliction of duty. As the charge against him in the D.E. was proved, the Appellate Authority has imposed punishment of reprimand. I do not find any violation of principles of natural justice as the Applicant has been provided sufficient opportunity by way of written and oral submissions. Punishment of reprimand imposed against the Applicant cannot be said to be grossly disproportionate to the proved charge against him.

10. I do not find any satisfactory reasons to interfere in the impugned order.

11. For the above reasons, Original Application is devoid of any merits and hence dismissed. No order as to costs.

Sd/-
(P.N Dixit)
Vice-Chairman

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