

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 710 of 2014

Shri Rajesh S/o Badrinath Thakur,
Aged about 50 years, Occ. Service,
R/o Chandrapur, Distt. Chandrapur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Home Department, Mantralaya, Mumbai.
- 2) The Director General of Police,
Maharashtra State, Mumbai.
- 3) The Special Inspector General of Police,
Nagpur Range, Nagpur.
- 4) The Superintendent of Police,
Chandrapur, Distt. Chandrapur.

Respondents

Shri G.G. Bade, S.K. Thengri, P.P. Khaparade, Advs. for the applicant.
Shri P.N. Warjurkar, Id. P.O. for the respondents.

Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).

JUDGEMENT

(Delivered on this 10th day of August,2017)

Heard G.G. Bade, Id. Counsel for the applicant and P.N.

Warjurkar, Id. P.O. for the respondents.

2. The applicant Rajesh Bardinath Thakur was appointed as a Nayak Police Constable in 2007 and was promoted to the post of Hawaldar on 17/09/2007. While working as Head Constable Buckle no.283 departmental enquiry was initiated against him in which a show cause notice was issued calling upon him to explain as to why his one increment for one year shall not be stopped. The said show cause notice was replied by the applicant and the Superintendent of Police, Chandrapur (R/4) vide order dated 7/10/2011 was pleased to pass following order :-

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I nj vknskkusvi pkjh fi Mhr >kyk vI Y; kl gk vknsk feGKY; kpsrkj [ks kl u 60 fnol k; k vkr fo'ksk i ksyhl egkfujh{k d ukxiij ifj{ks= ukxiij ; kauk vihy d# 'kdrkr-**

3. Being aggrieved by the order of punishment of fine of Rs.1000/- as stated above, the applicant preferred an appeal before the competent authority, i.e., the Special Inspector General of Police, Nagpur Range, Nagpur (R/3). The respondent no.3 passed an order on 7/9/2013 in the said appeal and was pleased to dismiss the appeal and the order passed by the Superintendent of Police, Chandrapur

whereby the applicant was directed to pay fine of Rs.1000/- was confirmed.

4. Being aggrieved by the order passed by the Superintendent of Police on 28/5/2009 and the order passed by respondent no.3 in the appeal on 7/9/2013 the applicant has preferred this O.A. The applicant has requested that order dated 6/8/2014 issued by respondent no.2 arising out of order dated 7/9/2013 issued by respondent no.3 and arising out of 7/10/2011 issued by respondent no.4 be quashed and set aside.

5. The respondent no.2 has filed affidavit-in-reply. The respondent no.4 also filed separate affidavit-in-reply and both the respondents tried to justify the order passed by them. According to the respondents, there was no violation of natural justice. The conclusions drawn in the departmental enquiry are correct. The applicant's conduct during his service period was against the interest of public and discipline of the Police Department. The applicant got voluntary retirement from the service as he did not want to join duties at Pittigudda Police Station where he was transferred. This decision was taken by him after his claim was rejected by the Tribunal.

6. The learned counsel for the applicant Shri Bade submitted that in the inquiry report no witnesses were examined in the sense

that their previous statements recorded in the preliminary inquiry were only referred to them and in fact it is a case of no evidence. I have perused the inquiry report placed on record. The main charge against the applicant was as under :-

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7. The aforesaid charge shows that this is a twofold charge. The first fold of the charge was that the applicant was transferred at sub Police Station Pittigudda and was relived on 1/12/2009 so as to join at his new posting. The applicant however pretended that he was sick and deliberately did not join his post under the garb of illness. The second fold of the charge is that the applicant was having relation with persons doing illicit business and that he was instigating them to do such business and was also recovering hafta from them.

8. It seems that as many as five witnesses were examined in the departmental enquiry and they were cross examined on behalf of applicant. Not only that, but the applicant was also examined defence

witnesses. In such circumstances, there is no force in the submission of the Id. Counsel for the applicant that no fair opportunity was given to the applicant to defend inquiry. The Inquiry Officer has come to the conclusion that the applicant deliberately did not join on his transfer post at outpost Pittigudda and his only intention was to avoid such transfer. Perusal of the order passed by the Appellate Authority, i.e., dated 7/9/2013 clearly shows that even Appellate Authority accepted the fact that charge of the applicant was having relation with persons doing illegal business was not proved, though it has been mentioned in the report that the witnesses have stated what so in preliminary inquiry. Perusal of both the impugned orders clearly shows that the applicant has not been punished in the departmental inquiry on the charge of having relations with the persons doing illegal business or was instigating them to do so or that he was accepting hafta from them, but the applicant has been held guilty of the charge of avoiding to join duty under the garb that he was sick.

9. It is material to note that initially the show cause notice was issued to the applicant to explain as to why his one increment for one year shall not be deducted and after going through the explanation given by the applicant and the other litigating circumstances the respondent no.4 came to the conclusion that the applicant shall be fined for Rs.1000/- only and this punishment has

been confirmed by the Appellate Authority, i.e., respondent no.3. I absolutely find no illegality in both the orders. Both the authorities have considered fact that even though the applicant was relieved from the post from ACB, Chandrapur so as to join at outpost Pittigudda on 27/11/2009, the applicant did not join there. The deliberate action on the part of applicant in not joining the post of transfer is further made clear from the fact the applicant has challenged the said order of transfer before Tribunal and when he was unsuccessful in getting that transfer order cancelled or quashed, he has opted for voluntary retirement, which clearly shows that the applicant never wanted to join at his post of transfer.

10. In my opinion the respondent no.4 has applied mind while awarding punishment to the applicant and respondent no.3 as an Appellate Authority has also considered all the facts on the record so also the points raised by the applicant in his appeal. I do not find any reason to interfere in the findings recorded by both the authorities as the same are not perverse to the facts on record. Hence, the following order :-

ORDER

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

(J.D. Kulkarni)
Vice-Chairman (J).