

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 1029 OF 2022
(Subject:- Minor Punishment /Increment)**

DISTRICT:-LATUR

Wajeed Majeed Shaikh)
Age- 49 Years, Occu. Service [Police Naik])
R/o: Police Head Quarters, Latur.)
Tq. & Dist. Latur.)
Mob. No. 9823441648.) **APPLICANT**

V E R S U S

1. **The State of Maharashtra,**)
Through its Secretary,)
Home Department,)
M.S., Mantralaya, Mumbai-32.)
2. **Upper Director General of Police,**)
(Administration), Shaheed Bhagatsingh)
Marg, Colaba, Mumbai 400 001.)
3. **Special Inspector General of Police,**)
Nanded Region,)
MHADA Colony, Nanded.)
4. **Police Superintendent, Latur,**)
Police Superintendent Office,)
Ambajogai Road, Latur.) **RESPONDENTS**

APPEARANCE : Shri R.P. Adgaonkar, learned Counsel
for the applicant.
: Shri M.P. Gude, learned Presenting
Officer for the respondent authorities.

CORAM : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

DATE : **05.01.2024.**

O R A L - O R D E R

Heard Shri R.P. Adgaonkar, learned counsel for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent authorities.

2. By this Original Application, the applicant is seeking quashing of impugned orders passed by the respondent authorities thereby stopping 3 increments of the applicant.

3. Brief facts giving rise to the Original Application are as follows:-

(i) The applicant was initially appointed as Police Shipai in the year 1993 and since then he is rendering the services with the department. In the year 2019, the applicant was sent to Police Training Centre Marol, Mumbai, under In service Skill Development Training Program. The Applicant joined the training program. The said program was scheduled from 17.06.2019 to 29.06.2019. On 28.06.2019 the applicant had completed the training program in the evening. There was some time left to have dinner. The applicant and one Govind Ramrao Darekar one of the trainees had been to his Room No. 306 and at that time the Police

Inspector Shri Kale and other staff members came in the room and questioned them as to why they are not attending the cultural program. It further appears that the applicant and said Govind Darekar were caught red handed by the said Police Inspector Shri kale and other staff members while consuming the liquor. Thus the said staff members have clicked the photographs and sent the applicant and said Gavind Darekar for medical examination.

(ii) On 19.11.2019 the applicant was served with the show cause notice calling upon explanation regarding the said incident dated 28.06.2019. It was mentioned in the said notice that the applicant was caught consuming liquor with evidence, which is highly irresponsible behavior. The said show cause notice dated 19.11.2019 is marked as Annexure – B.

(iii) On 30.12.2019, the applicant has submitted his explanation stating therein that he is innocent person and has done nothing wrong. According to the applicant he had been room for getting a wash and thereafter he was supposed to have dinner. However, vide order dated 12.06.2020 which was communicated to the applicant on 25.07.2020, the

respondent No.4 has passed an order of stoppage of 3 increments.

(iv) Being aggrieved by the same, the applicant has approached to the respondent No.3 on 22.09.2020. However, the respondent No.3 was pleased to reject the contention of the applicant and confirmed the order passed by the respondent No.4 vide order dated 25.08.2021 (Annexure -'F').

(v) Being aggrieved by the same, the applicant has preferred first appeal before the respondent No.2 on 04.11.2021 (Annexure 'G'). By order dated 12.04.2022 (Annexure 'H') the respondent No.2 has also dismissed the appeal by confirming the orders passed by lower appellate authorities. Hence, this Original Application.

4. Learned counsel for the applicant submits that the applicant has rendered unblemished services with the department and that he was awarded for almost 40 times for his excellence and so also being promoted from time to time. Learned counsel for the applicant submits that the applicant had been to the room for getting wash before leaving for dinner. Meanwhile the Police Inspector Shri kale and other staff members had been to the room. Even though the

applicant has given them explanation, however, the said team laid by Kale had not considered the same and sent the applicant along with said Govind Darekar for their medical examination. Learned counsel for the applicant submits that so far as the said Darekar is concerned, the alcohol was found in his blood as per the report of medical examination issued by medical officer but no such alcohol was found in the blood report of the applicant and medical officer has given certificate to that effect.

5. Learned counsel for the applicant submits that however, the respondent Nos. 2 to 4 have not considered this important aspect. Learned counsel for the applicant submits that this Original Application deserves to be allowed by setting aside the orders passed by respondent Nos. 2 to 4.

6. The respondent Nos. 1 to 4 have filed their affidavit in reply. Learned P.O. submits that the detailed enquiry was conducted by Principal of Police Training Centre, Marol, Mumbai and based on it the default report was sent against the applicant to respondent No.4. Thereafter, show cause notice was given to the applicant with reference letter dated 09.11.2019. However, the applicant has not submitted

any satisfactory explanation in response to the said show cause notice.

7. Learned P.O. submits that after this incident the applicant and Shri Govind Darekar were sent for medical examination and smell of alcohol was found in the medical report of Form-A of both of them. Learned P.O. submits that there are statements of the said team laid by Police Inspector Shri Kale. Even immediately after the said incident one of the members of the team has clicked the photograph on his mobile when in the room No. 306 applicant and said Darekar both found with the bottle of alcohol. Learned P.O. submits that the three respondents i.e. the respondent Nos. 2 to 4 have consistently recording findings against the applicant and found him guilty for alleged indiscipline. There is no substance in the Original Application and the same is liable to be dismissed.

8. It appears that the applicant was sent for In Service Skill Development Training Program on 17.06.2019 and the said program was scheduled from 17.06.2019 to 29.06.2019. On 28.06.2019, the applicant has completed the training program in the evening. The applicant along with

said Govind Darekar was found in the room No. 306 allotted to them during training program. The Police Inspector Shri Kale and other staff members came in the room and questioned them as to why they are not attending the cultural program. It thus appears that no training was going on during that period and the applicant and the said Govind Darekar were supposed to attend the cultural program which was scheduled for entertaining the trainees.

9. Further on perusal of the original file it appears that only one bottle allegedly containing the liquor and one water bottle found on the floor of the room. It is important to mention here that in medical examination the alcohol was found in the blood of said Darekar and on medical examination of the applicant, the alcohol in blood was not found.

10. In view of the aforesaid facts, if the applicant has got unblemished service record for more than two decades, the punishment inflicted to the extent of the applicant appears to be not proportionate. However, considering the fact that the respondent No.2 i.e. Upper Director General of Police (Administration), Mumbai, respondent No.3 i.e. the

Special Inspector General of Police, Nanded and respondent No.4 i.e. the Superintendent of Police, Latur who are the top officers of the police department have concurrently found the applicant guilty, I am not inclined to quash the set aside punishment imposed upon the applicant. However, considering the facts as discussed aforesaid it would be appropriate if the warning is given to the applicant to the effect that such type of incident should not be repeated in future and such warning be recorded in the default report.

11. Needless to say that the application is partly allowed and the punishment imposed upon the applicant as per the impugned order is modified to the extent as above.

12. In terms of the aforesaid observations, the Original Application is disposed of. There shall be no order as to costs.

13. The original record shall be returned to learned P.O. forthwith.

MEMBER (J)

Place:-Aurangabad

Date : 05.01.2024

SAS O.A. 1029/2022 (S.B.) VKJ Transfer.