

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 193 of 2019 (DB)

Dasarath S/o Uttam Chavan,
Aged 46 years, At present Nil,
C/o R/o Laxman Naik Tanda,
Post Lohra , Tq. Auundha Nagnath
District Hingoli (Bhandara).

Applicant.

Versus

- 1) The State of Maharashtra,
through its Additional Chief Secretary,
Home Department,
Mantralaya, Mumbai-32.
- 2) Director General of Police,
Having its office Near Regal Theatre,
Kulaba, Mumbai.
- 3) Deputy Inspector General Of Police,
Gadchiroli Range,
Camp Nagpur.
- 4) Superintendent Of Police,
Gadchiroli.

Respondents.

Shri S.P.Palshikar, Ld. counsel for the applicant.

Shri V.A.Kulkarni, ld. P.O. for the respondents.

**Coram :- Shri Shree Bhagwan, Vice-Chairman and
Shri M.A. Lovekar, Member (J).**

Date of Reserving for Judgment : 11th August, 2022.

Date of Pronouncement of Judgment: 25th August, 2022.

JUDGMENT

Per :Vice Chairman.

(Delivered on this 25th day of August, 2022)

Heard Shri S.P.Palshikar, ld. Counsel for the applicant and Shri V.A.Kulkarni, ld. P.O. for the respondents.

2. Case of the applicant is as follows. The applicant entered into Government Service in the year 2010 as a Police Shipai and was posted at Gadchiroli. Thereafter, he served in the same capacity at Gadchiroli District and lastly prior to the alleged incident he was working at Jimalgatta, Tq. Aheri, District Gadchiroli in the same capacity. While working as Police Shipai at Jimalgatta Headquarter, Police Headquarter, Gadchiroli a charge sheet was issued to him by levelling a charge that during the course of his service he had committed misconduct.

3. On 03.06.2016 an offence was registered against the applicant vide Crime No. 02/2013 under section 307 read with section 34 of Indian Penal Code and he was arrested on 25.05.2016 therefore, he was placed under suspension pending departmental enquiry. Thereafter a full fledged departmental enquiry was initiated against the applicant for the charges levelled against him.

4. On 27.09.2017, the Enquiry Officer submitted his enquiry report to the respondent no. 4 S.P. Gadchiroli. He came to a conclusion that the charge which was levelled against the applicant was proved.

5. On 12.12.2017, Respondent no. 4 issued a show cause notice to the applicant as to why he should not be dismissed from service, to which the applicant submitted his reply.

6. On 06.01.2018, Respondent no. 4 passed the final order thereby inflicting punishment of compulsory retirement.

7. On 15.05.2018, the applicant filed appeal before the respondent no. 3 and the respondent no. 3 was pleased to dismiss the appeal. The applicant then preferred the appeal before the respondent no. 2 herein and the respondent no. 2 by order dated 31.01.2019, was pleased to dismiss the appeal. Feeling aggrieved thereby the applicant has approached this Tribunal for redressal of his grievances. Hence this original application.

8. Relevant portion of reply of the respondent no. 2 is reproduced below:-

A. The Departmental Enquiry in respect of the aforesaid illegal act of having extra marital relation has been conducted and he has been found guilty for keeping extra marital relation with one Usha Meshram. Accordingly, the Enquiry Officer has submitted his report to the SP, Gadchiroli on 27/09/2017. The SP, Gadchiroli after considering the report filed by the Enquiry Officer imposed the punishment of

compulsory retirement on 05/01/2018 and treated the suspension period between 25/05/2016 to 07/02/2017 as such.

B. The applicant has been acquitted by the Hon'ble Sessions Court at Gadchiroli by judgment dated 02/11/2017. The Applicant preferred the appeal against the order of compulsory retirement dated 05/01/2018 to the Dy. IGP which is also dismissed by the order dated 15/05/2018. Thereafter, the applicant preferred the Revision appeal to this answering respondent. That the respondent considered all the material, documents, statements specially the statement of Usha Meshram given before the Enquiry Officer, and dismissed the Revision appeal on 31/01/2019.

C. The Departmental Enquiry has been conducted against the applicant for having extra marital relation and on other charges more specifically mentioned in the memo. The Complainant, Usha Meshram has recorded her statement before the Enquiry officer regarding the incident in question which is contrary to her statement in the FIR however; she has admitted in her statement that there was an extra marital relation between the applicant and her. Therefore, it is proved

in the Departmental Enquiry that the applicant had kept Extra Marital Relation which is clearly unbecoming of police person and, does not suit to the police personnel. The perverse act of the applicant has not only tarnished the image of the police department in the eyes of the public, but also the applicant has violated the terms and conditions of his service.

D. The acquittal granted by the Hon'ble Sessions Court at Gadchiroli is given on the ground of benefit of doubt and due to errors committed by the investigating officer in investigation. The applicant has not been exonerated fully from the charges.

E. The Departmental Enquiry and the Criminal Trial are conducted on different principles; therefore the result of either cannot have effect on each other. Moreover, the Departmental Enquiry is conducted on the principles of "Preponderance of Probabilities" and for unbecoming conduct of the applicant. Hence the decisions taken by the Respondents are based on cogent material came up in the Departmental Enquiry.

9. Respondent no. 4 has supported the impugned orders on the grounds that the same were based on the record and during the enquiry principles of natural justice were scrupulously followed.

10. The punishment given to the applicant appears to be primarily related to his personal/ domestic issue. According to the set principle of Law personal life of an employee should not be mixed up with official performance/ career. Hence, the matter is remanded back to respondent no. 4 i.e. Superintendent of Police, Gadchiroli by quashing and setting aside the order passed by Respondent no. 4 i.e. Superintendent of Police, Gadchiroli dated 06.01.2018 (A-5, Pg. No. 32), order passed by Respondent no. 3 i.e. Deputy Inspector General of Police, Gadchiroli Range, Camp Nagpur dated 15.05.2018 (A-6, Pg. No. 34) and order passed by Respondent no. 2 i.e. Director General of Police, Mumbai dated 31.01.2019 (A-7, Pg. No. 40) and he is directed to reconsider the matter segregating the personal/ domestic issue and official performance having regard to facts and circumstances of the case and pass necessary order.

11. **The O.A. is allowed in the aforesaid terms with no order as to costs.**

(M.A.Lovekar)
Member(J)

aps

Dated – 25/08/2022

(Shree Bhagwan)
Vice Chairman

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman & Member(J).

Judgment signed on : 25/08/2022.
and pronounced on

Uploaded on : 26/08/2022.