

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 207 of 2010 (D.B.)**

Sanjay Ddnyandeo Surve,  
Aged :Adult, Working as Police Inspector,  
Caste Certificate Scrutiny Committee,  
R/o Gadchiorli, Tq. & Dist. Gadchiroli.

**Applicant.**

**Versus**

- 1) State of Maharashtra  
through its Secretary to the Govt. of Maharashtra,  
Home Department,  
Mantralaya, Mumbai-400 032.
- 2) The Director General of Police,  
Maharashtra State, Mumbai.

**Respondents.**

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**S/Shri M.M. Sudame, S.K. Varma, Advocates for the applicant.**  
**Shri P.N. Warjurkar, learned P.O. for the respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J) and  
Hon'ble Shri Shree Bhagwan, Member(A).**

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**JUDGMENT**

**PER : V.C. (J).**

**(Delivered on this 3<sup>rd</sup> day of September,2018)**

Heard Shri M.M. Sudame, learned counsel for the applicant and Shri P.N. Warjurkar, learned P.O. for the respondents.

2. The applicant was selected and appointed on the post of Sub-Inspector on 15/06/1989 and was promoted to the post of Police

Inspector on 10/06/2008. The applicant while working on the post of Assistant Police Inspector at Police Station Kandhar, Dist. Nanded a charge sheet was served on 29/05/2002. The departmental inquiry was conducted against the applicant and the respondent no.2 on 29/05/2007 imposed following punishment as per Annex-5.

**^& vlnsk&**

eh] ih-ih-'kelj] vij ikyhl egkl pkyd ¼vklFkki uk½] eglyk"Vªjkt; ] epcbz; k vlnskkkOnkjs vipkjh l gk; d ikyhl fujh{kd] l at; Kkuno l øð; kauk dkj.ksnk[kok ukvhl e/; siLrkfor dsy syh ^iq-hy ns olf"kd oruok< 3 ¼rhu½ o"½¼Hkfo"; krhy i fj.kkekl g½jks[k.k.k\*\* rj nq js l g dl gjnkj l ðkfuorR l gk; d ikyhl fujh{kd vkfl Q vyh [kku vgehn [kku i Bk.k ; kauk ^R; kR; k eG l ðkfuorRh orukruw njegk #i; s 500@& ¼#- i kp'k½ ; k i ek.k 2 ¼nku½ o"½ fuorRhoru d i kr dj.k\*\* gh f'k{k vkre vlnskkr nsr vkgs

l nj f'k{kusvipkjh l gk; d ikyhl fujh{kd] l at; Kkuno l øðgs0; fFkr gkr vl Y; kl rs gsvlnsk i ktr >kyY; k fnukadki kl w 60 fno l kR; k vkar 'kk l ukl vihy d# 'kdrkr- ek= l ðkfuorR l gk; d ikyhl fujh{kd vkfl Q vyh [kku vgehn [kku i Bk.k gsl /; k 'kk l u l or dk; jr ul Y; kus R; kauk vihy dj.kkcr fu; ekr rjrm ukgh-\*\*

3. Being aggrieved by the said order, the applicant preferred an appeal before the respondent no.1 i.e. the State through the Secretary of Home Department, Mantralaya, Mumbai. Vide order dated 27/01/2010 (Annex-A-7,P-66) the appeal was dismissed and the punishment inflicted upon the applicant was maintained. Being aggrieved by these orders i.e. at Annex-A-5 and Annex-A-7 respectively the applicant has preferred this petition.

4. The learned counsel for the applicant submits that the disciplinary authority as well as appellate authority have not

considered the important facts and grounds made out by the applicant. The order of the appellate authority is not speaking order and the points raised in the appeal memo were not considered at all and therefore it is prayed that both the impugned orders be quashed and set aside.

5. The reply-affidavit has been filed by respondent no.2 whereby the respondents have tried to justify the orders passed by respondent nos. 1 and 2. It is stated that as per the guidelines laid down by the Hon'ble Apex Court in case of **Union of India & Ors. Vs. S.S. Ahluwalia, reported in 2007 SCC (7),247** wherein it is stated that the scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceeding is very limited. The Court can interfere with the punishment only if finds the same to be shockingly disproportionate to the charges found to be proved and even in such case the court is to remit the matter to the disciplinary authority for reconsideration of the punishment. It is stated that the respondent has already dealt the applicant with leniency and therefore the order shall not be interfered.

6. The learned counsel for the applicant submits that the appellate authority has not considered the points raised in the appeal memo and has mechanically passed the order maintaining the order of punishment passed by the disciplinary authority. The grounds on

which this petition has been filed shows that the applicant is challenging the order of appellate authority dated 27/01/2010 on the ground that it is contrary to the facts of law. The charge of negligence is not at all proved on the basis of evidence on record. It is further stated that the order of appellate authority is not speaking, and on the contrary it is cryptic and stereo type and the appeal has been decided as empty formality. We have perused the order of impugned order passed by the appellate authority at Annex-A-7. In para 3 of the order the appellate authority has mentioned as under :-

~¼3½ vihykFkhl; k vihy vtKbj 'kkl ukus vihykFkhluk fnukad 05@05@2009 o fnukad 23@06@2009 jksth iR; {kkr l qko.kh fnyh- l qko.khe/; s'kkl ukus vihykFkhl R; kpsys[kh o rklh Eg.k.ksekM.; kph l dkh fnyh- l qko.khe/; s vihykFkhlps rklh Eg.k.k.s, dqu ?ks; kr vkys R; kpiæk.k.s vfiykFkhl vihy vtKf mYys[kyssepnj ; k idj.kkph dlxni =] f'kLrHkax i kf/kdkjh ; kpsvlns k bR; knhph 'kkl ukus Nkuuh dsyh- R; kr 'kkl ukys vl svk<Guu vkys dh] vihykFkhlus vihy vtKf mYys[kyY; k epn; kph ; ki whp Nkuuh >kysyh vkgs f'kLrHkax i kf/kdk&; kR; k vlns kkr cny dj.; kr ; kok] vl k dkskrkgh uohu epnk vfiykFkhl mi fLFkr dsysy ukgh- r l p R; kauh mi fLFkr dsyY; k vihy vtKf dksR; kgh Lo#i kpsrF; ul Y; kP; k fu"d"kk r 'kkl u vkysyvkgs l cc] vfiykFkhlps vihy vtZQVIG.; kr vkysvkgs vkf.k R; kr vkOgkfur >kysysf'kLrHkax i kf/kd&; kpsvlns k dk; e dj.; kr vkysvkgs- \*\*

7. In the earlier paras of the order the appellate authority has referred to the various facts and evidence on record so also the various documents and has specifically mentioned that the applicant was given opportunity of hearing and also to place his submission and thereafter all the points raised by the applicant in the appeal memo as well as relevant documents were scanned and after doing all these things, the appellate authority came to the conclusion that

there was no merits in the application. We have also perused the appeal memo before the appellate authority. The copy of the said appeal memo is at P.B. page nos. 61 to 65 (both inclusive). Perusal of the said appeal memo shows that the only grievance of the applicant was that lenient view has been taken against the co-delinquent Shri Pathan, whereas strict view has been taken against the applicant. However we do not find any force in the said contention.

8. The charge against the applicant in the departmental enquiry is as under :-

***^ I gk; d iksfu-Jh-I at; Kluno I q&***

*r fgh Jh-I at; Kluno I q& I gk- iksfu- iksyh LVs'ku] d'kkj ftYgk ukmM ¼I /; k I kxyh ½ ; fks ue.kphtl vl rkauk [kkyhyiek.ks drD; kr cstckcnkji.kk] gyxtthi.kk o fu"dkGthi .kkph dI jih dsykr-*

*1- fnuakd 28@02@2001 jksth I k; adkGh 19-55 oktrk vki .k iksyh LVs'ku] d'kkj ; fksgtj vl rkauk i k-cMos; kauh OkuOnkjsR; kP; k ?kjh HKM; kusvl ysysfdjk; nkj Jh-i BdkM ; kP; k #ee/; s, d eyxh i Mpu vkgs fryk vkokt fnyk vl rk cksyr ukgh] fo"kkjh i nkFkpk okl ; s'kq gkyppy gkr ukgh oxjsdGfoyo#u Bk.ksvæynkj i kgsdk#727 I kuadkGs; kauh n'su'nuhr ukm ?kou r fghk ?kVukLFkGh jokuk dsys R; k ?kVukLFkGkyk HkV/ fnY; kurj i fjfLFkrhpk vk<kok ?kou rRdkG ?kVukLFkGkojhy I ak; hr oLrqrk; kr ?skst#jh vl rkauk vki .kR; kdMsnvZk d#u fu"dkGthi .kk dsyk vkgs*

*2- ?kVukLFkGh i kspY; koj e; rkp; k i rkp i pukek o ?kVukLFkGpk i pukek dj .ksvko' ; d vl rkauk rksdyk ul pu drD; kr VkgkVkg d#u xkhhj dI jih dsyh vkgs*

*3- ?kVups xkhhz; Zy{kr ?kou e; rkp; k i rkp o ?kVukLFkGpk i pukek u djrk i r nok[ku; kr gyow v{kh; vl sxjort dsyvkgs*

*4- ?kVukLFkGh i kspY; kurj i fjfLFkrhpk vk<kok ?kou fu; ekud kj i pukek dj.; kP; k dk; bkghl I #okr u djrk i km i fu vkfl Q vyh v gehn[kku i Bk.k ; kauk cksykou ?kou R; kpsdMsrikl nou*

*dril; kr ply<dyi .kk d#u oG ykoyk o v{kE; dl jh dsyh vkgs R; keGs turæ/; sxjI et fuekzk gkouw i fjfLFkrh fp?kGyhR; kl Lor%dkj .kHkwr vkgkr-*

*5- ?kVukLFkGh i kspY; koj efgyk i pkauk clykou e; rkp; k xfrkxkph i gk.kh dj.kj e; rkps Qk/ks dk<.kl kBh Qk/ksxkQj ; kauk i kpkj.k dj.ksvko'; d vl rkauk] R; kclcr rfigh dkghgh dk; bkgh u djrkR; ke/; stk.ku qtu nyzk d#u fu"dkGthi .kk d#u xjorL dsysvkg*

*6- ?kVukLFkGh i kspY; kurj dkgh oGkurj i syhl Bk.ks veynkj I kudkGs; kauh QkuOnkjs e; reyhps ukw dGou vkG[k dGfoyh vl rk] e; rkp; k ukrokbbkauk rRdkG clykou ?ks; kclcr dkgh, d dk; bkgh dsybh ukgh v'kki zlkjsfu"dkGthi .kk d#u dl jh dsybh vkgs\*\**

9. It seems that the witnesses were examined by the inquiry officer and they were cross examined by the applicant. Not only that thereafter the applicant has given a written statement of defence and after going through the evidence, the Inquiry Officer came to the conclusion that the charges were proved. Thereafter a show cause notice was issued to the applicant as to why action shall not be taken against him and why his three increments shall not be stopped permanently. After considering the reply of the applicant, the competent authority decided to inflict punishment on the applicant as already stated. Before the appellate authority it was never contended that no opportunity was given to the applicant or that the evidence is perverse to the facts on record. We have perused the inquiry report as well as documents of inquiry and we are satisfied that full opportunity was given to the applicant to make out his defence and the disciplinary authority has considered all the factors on record. We have also perused the order passed by the respondent no.2 in departmental inquiry i.e. Annex-A-5 at P.B. page

nos.56 to 60 (both inclusive). The competent authority has considered all the aspects of the case, the documents on record so also the defence taken by the applicant in the departmental inquiry. The respondent no.2 has observed in the impugned order in para-7 as under :-

^ I dkfuorR l gk; d i ksyhl fujh{k d vkfl Q vyh [kku vgetn [kku i Bk.k ; kauh R; kR; k mRrjke/; s ojhy i ek.ks eqnsmi fLFkr dsys vl ys rjh ?kVukLFkGko#u i r gyfo.; ki wtz i pukek ys[kh d#u dlxni =kr l kfey dsyk ukgh] l i ksu l pD; kauh dsyk vl kok vl sxghr /k#u rsofj" B gkrsEg.kuu dl jh R; kR; koj <dy.; kpk iz Ru dsyk vkgs r l p foHkkxh; pkd'kh njE; ku cpkokpsfuonu l knj dj.; kl k Bh eqr o l d'kh nouugh R; kauh fuonu l knj dsysys ukgh gh oLrqlFkrh vkgs R; kpi ek.ks R; kpsfo#/nph pkyfo.; kr vkysyh foHkkxh; pkd'kh gh fu; eklo; svkgs , danjhr l dkfuorR l i ksu] i Bk.k gsg; k i zdj.kh ?kVukLFkGh gtj vl rkauk i pukek dsyk ukgh ; kl frrdp tckcnkj vkgs- f'kok; Bk.ks nSufnuko#u l nj xltg; kpk rikl R; kauh ns; kr vkyk gkrc v'kh ukm vkgs r l p i kcdk#727] l kaudkaGs; kauh R; kR; k foHkkxh; pkd'kh rhy l k{kh njE; ku i ksu- ukbz l kauh i kmi fu] i Bk.k ; kauh rikl dj.kckcr dYi uk fnyh vkgsvl sl kixryj i jarqvi pljh i kmi fu i Bk.k ; kauh rikl R; kR; kdms fnyk vkgs gs dqtgh dGfoys ckr pkd'kh njE; ku Li"V >kysys ukgh- rFkfi] , d tckcnkj vf/kdkjh o brD; k nh?kZl d#u ?kVukLFkGh i kspY; kuarj i kFked dkjokbz d#u e; rkpk i pukek d#u urjp i r ?kVukLFkGko#u gyfo.; kl i jokuxh nsksvko'; d gkrs i jarqvi pljh l s fu- l i ksu] i Bk.k ; kauh R; ki ek.ks dkjokbz dsyh ukgh fdok l i ksu] l pD; kauh i puke; kR; k i q'rcr fopkj.kk u djrk rh dk; bkg h >kyh vl koh vl sxghr /k#u i r ?kVukLFkGko#u gyfoys gh R; kph dl jh fl /n >kyh vkgs R; keGsrsg h f'k{k d i k= vkgs- \*\*

10. We do not find any illegality in the observations made by the respondent no.2 in the impugned order. As already stated full opportunity was given to the applicant to defend the departmental inquiry and the applicant was charged with serious allegations which prima-facie seems to be proved. We do not find any perversity in the appreciation of evidence made by the Inquiry Officer. Though

serious charges are levelled against the applicant a very lenient view has been taken whereby only one increment has been stopped for three years and therefore we do not want to interfere in the decision taken by the competent authority since the said decision is well corroborated by the evidence on record. Hence, the following order :-

**ORDER**

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

**(Shree Bhagwan)**  
**Member(A).**

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

**Dated :- 03/09/2018.**

dnk.