

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 446/ 2022 (S.B.)**

Raju S/o Bondyalu Mancharlawar,  
Aged about 47 years, Occ. Service,  
R/o Rajwada Road, Opp. S.B.I. Bank,  
Aheri, Tq. Aheri, Dist. Gadchiroli.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Department of Home,  
Mantralaya, Mumbai- 32.
- 2) The Additional Director General of Police (Administration),  
Maharashtra State,  
Shahid Bhagat Singh Marg,  
Kolaba, Mumbai-400 001.
- 3) The Deputy Inspector General of Police,  
Gadchiroli Range, Camp at Nagpur,  
Office : Civil Lines, Nagpur.
- 4) The Superintendent of Police,  
Gadchiroli, Dist. Gadchiroli.

**Respondents**

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**Shri S.Borkute, Id. Advocate for the applicant.**

**Shri A.M.Ghogre, Id. P.O. for the Respondents.**

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**Coram :- Hon'ble Shri M.A.Lovekar, Member (J).**

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**JUDGEMENT**

**Judgment is reserved on 24<sup>th</sup> July, 2023.**

**Judgment is pronounced on 31<sup>st</sup> July, 2023.**

Heard Shri S.Borkute, Id. counsel for the applicant and Shri A.M.Ghogre, Id. P.O. for the Respondents.

2. Case of the applicant is as follows. On 11.11.2018 the applicant was attached to Aheri Police Station as Head Constable. On that day Crime No. 216/2018 was registered at Aheri Police Station under Section 12 (a) of the Bombay Prevention of Gambling Act and 109 of the I.P.C. against 7 persons. By order dated 05.12.2018 (A-2) the applicant was placed under suspension by alleging as follows:-

“सदर गुन्ह्यातील अटक आरोपी विलास बुधाजी सिडाम रा. अहेरी हा जुगार खेळ खेळित व खेळवित असतांना मिळुन आल्याने त्यास जुगारा संबंधात विचारणा केली असता त्यांनी वरील नमुद एकूण ५ व्यक्ती मिळुन जुगार खेळ खेळवित असुन जुगार खेळाचे परवानगी करीता अहेरी पोलीस ठाण्याचे पोलीस हवालदार राजु मंचलवार यांचे सोबत दिनांक ०१.११.२०१८ रोजी संपर्क करुन त्याला ५०,०००/- रुपये देवून त्याचे कडुन परवानगी घेवुन दिनांक ११.११.२०१८ पर्यंत जुगाराचा खेळ चालु असल्याचे सांगितले आहे.

आपण आपले पदाचा दुरुपयोग करुन दिनांक ०१.११.२०१८ ते ११.११.२०१८ या दिपावलीचे कालावधीत विलास बुधाजी सिडाम रा. अहेरी आणि त्यांचे सहकाऱ्याकडुन ५०,०००/- रुपये मागणी करुन त्यांना पोलीस ठाणे अहेरी अंतर्गत जुगार खेळ खेळविणे करीता परवानगी दिली आहे. आपण शिस्तबध्द पोलीस खात्यात नेमणुकीस असुन व आपणास नियमाची जाणीव असून सुद्धा, कर्तव्यात बेजबाबदारपणाचे व गैरशिस्त वर्तन केलेले आहे. आपले सदरचे कृत्यामुळे जनमानसात पोलीस दलाची प्रतीमा मलीन करणारे आहे करिता तुमचे विरुद्ध चौकशी सुरु करण्यात आलेली आहे.

त्या अर्थी मुंबई पोलीस (शिस्त व अपील) नियम १९५६ च्या नियम ३ मधील (१) पोटनियम (अ-२) च्या तरतुदीनुसार पोहवा/ ९८४ राजु मंचलवार, नेमणुक पोलीस स्टेशन अहेरी, जिल्हा गडचिरोली ह्यांना हा आदेश प्राप्त झाल्याचे दिनांकापासून तात्काळ प्रभावाने निलंबित करण्यात येत आहे”

On 23.09.2019 notice (A-4) was issued to the applicant calling upon him to show cause as regards the following:-

“तुमचे वरील कसुरी बददल मी, पोलीस अधिक्षक, गडचिरोली, मुंबई पोलीस (शिक्षा आणि अपिले) सन १९५६ मधील नियम क्र ३ (२) (५) चे तरतुदीनुसार तुम्हाला "पुढील देय असलेली वार्षिक वेतनवाढ ३ (तीन) वर्षा करिता स्थगित करण्याची शिक्षा " कां ठोठाविण्यात येवु नये ?

तसेच तुम्ही निलंबनात घालविले कालावधी दिनांक १३/१२/२०१८ ते दि. ०१/०४/२०१९ पर्यंत "जसाच तसा" (As Such) म्हणुन कां गणण्यात येवु नये? याबाबत विचारणा करणारे सदरचे कारणे दाखवा नोटीस देत आहे.”

The applicant submitted his explanation dated 08.11.2019 (A-5).

The Disciplinary Authority imposed the following punishment:-

“पोहवा/९८४ राजु मंचलवार, सध्या नेमणुक पोलीस मुख्यालय, गडचिरोली यांना त्यांचे वरील कसुरी बददल, मुंबई पोलीस (शिक्षा आणि अपिले) सन १९५६ मधील नियम क्र. ३(२)(५)" पुढील देय असलेली वार्षिक वेतनवाढ १(एक) वर्षा करिता स्थगित करण्याची शिक्षा" देत आहे.

तसेच तुम्ही निलंबनात घालविले कालावधी दिनांक १३/१२/२०१८ ते दि. ०१/०४/२०१९ पर्यंत "जसाच तसा" (As Such) म्हणून गणण्यात येत आहे."

The Appellate Authority and the Reviewing Authority declined to interfere, by orders dated 24.07.2020 (A-10) and 31.12.2021 (A-12). Hence, this Original Application.

3. Stand of respondents 2 & 4 is that before imposing the punishment preliminary enquiry was ordered. Order of suspension was revoked on 19.03.2019. On 09.07.2019 report of preliminary enquiry indicting the applicant was submitted. Thereafter, by following due procedure, punishment was imposed which was commensurate with nature of proven delinquency of the applicant. Considering this aspect period of suspension was directed to be treated as such.

4. The impugned punishment was imposed under rule 3(2)(v) of the Bombay Police (Punishment and Appeals) Rules, 1956. Rule 4 (2) of these rules is relevant. It reads as under:-

*"4(2) Without prejudice to the foregoing provisions, no order imposing the penalty specified in clauses (i), (ii), (iv), (v) and (vi) of sub-rule (2) of rule 3 on any Police Officer shall be passed unless he has been given an adequate opportunity of making any representation that he may desire to make, and*

*such representation, if any, has been taken into consideration before the order is passed:*

*Provided that, the requirements of this sub-rule may, for sufficient reasons to be recorded in writing, be waived where there is difficulty in observing them and where they can be waived without injustice to the officer concerned.”*

Show cause notice was issued to the applicant. His reply was taken into account. Thereafter, punishment was imposed. There was no breach of either principles of natural justice or any statutory provision. This was clearly not a case of “no evidence”. Therefore, this Tribunal cannot interfere with finding of fact holding the applicant guilty of delinquency. So far as punishment is concerned, it cannot be said to be shockingly disproportionate to the proven nature of delinquency. Hence, interference on the point of quantum of punishment too, would be impermissible.

5. It was contented by Shri S. Borkute, Id. Counsel for the applicant that in the facts and circumstances of the case the direction to treat the period of suspension “as such” cannot be sustained. In support of this submission reliance was sought to be placed on Rule 72 of The Maharashtra Civil Services (Joining time, Foreign Service and Payments During Suspension, Dismissal and Removal) Rules, 1981.

Rule 72 of 'Rules of 1981' provides procedure for as to how to regulate the period of suspension, where the Government servant is reinstated in services. As per Rule 72(3) of 1981, where the authority competent to order the reinstatement is of the opinion that the suspension is wholly unjustified, the Government servant shall, subject to the provision of sub-rule 8, be paid the full pay and allowances to which he would have been entitled, had he not been suspended. Whereas, as per Rule 72(5) of Rules 1981, in case other than those falling under sub-rule (2) & (3), the competent authority is required to give notice to the Government servant of the quantum proposed and after considering the representation an appropriate order is required to be passed. Suffice to say, the competent authority has to form opinion as to whether suspension was wholly unjustified or otherwise.

6. Charge against the applicant was held to be proved and punishment as above was imposed. Therefore, suspension of the applicant cannot be said to be wholly unjustified. For the reasons stated above the **O.A. is dismissed with no order as to costs.**

**(Shri M.A.Lovekar)**  
**Member (J)**

**Dated :- 31/07/2023.**  
**aps**

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 Member (J).

Judgment signed on : 31/07/2023.  
and pronounced on

Uploaded on : 01/08/2023.