

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO. 159/2013 (D.B.)**

1. Gunwant Suka Rathod (Dead through L.Rs.)
1. Smt. Alka W/o Gunwant Rathod,  
aged 37 years, Occupation Household,
2. Prajakta D/o Gunwant Rathod,  
Aged 19 years, Occupation Nil.
3. Saurav S/o Gunwant Rathod,  
Aged 17 years, Occupation Nil,  
Minor through his Natural Guardian  
Mother Smt.Alka w/o Gunwant Rathod.

All residents of Palaswadi, Police Line  
Darwha Road, Yavatmal.

**Applicants.**

**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) Inspector General of Police,  
Amravati Range, Amravati.
- 4) Superintendent of Police,  
Yavatmal.

**Respondents**

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Shri S.P.Palshikar, Ld. Counsel for the applicant.  
Shri A.M.Ghogre, Ld. P.O. for the respondents.

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

**Dated: - 07<sup>th</sup> December 2022.**

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### **JUDGMENT**

**Per :Member (J).**

**Judgment is reserved on 22<sup>nd</sup> November, 2022.**

**Judgment is pronounced on 07<sup>th</sup> December 2022.**

Heard Shri S.P.Palshikar, learned counsel for the L.R.s. of Original applicant (hereinafter referred to as the applicant – since deceased) and Shri A.M.Ghogre, learned P.O. for the respondents.

2. By order dated 17.01.2008 (Annexure A-2) the applicant then working as Police Constable, was placed under suspension. This order stated-

पो.स्टे.राळेगांव येथे नेमणुकीस असतांना दि.८.०१.२००८ रोजी राळेगांव येथे राजीव गांधी क्रिडा संकुलाचे मैदानावर चालु असलेल्या जि.प.प्राथमिक व माध्यमिक विद्यार्थी व विद्यार्थीनीच्या सांस्कृतीक कार्यक्रमाचे वेळी कार्यक्रम चालु असतांना बंदोबस्ताकरिता असलेल्या कर्मचा-यासमक्ष दारुचे नशेमध्ये कार्यक्रमाचे ठिकाणी स्टेजवर जावुन नाचले व मुलीचा हात धरुन असभ्य वर्तन केले. हया तुमच्या गैरशिस्त, गंभीर कसुरी संबंधाने.

He was then served with a charge sheet (Annexure A-3) which contained following charges-

दोषारोप

१. तुम्ही पो.स्टे. राळेगांव येथे नेमणुकीय असतांना पो.स्टे.राळेगांव येथील सेवाकाळात ड्युटीवर नेहमी दारु पिवुन राहणे दारुच्या नशेत कोठेही पडुन राहणे. अधिकारी कर्मचारी यांचे सोबत हुज्जत घालणे कोणी समजाविण्याचा प्रयत्न केला तर आत्महत्या करण्याची धमकी देणे अशा प्रकारचे बेशिस्त वर्तन केले.
२. दिनांक २७.१२.०७ रोजी पो.स्टे. राळेगांव पो.स्टे. चे आवारात तंटामुक्त गांवसमिती सभा चालु असतांना समितीच्या सदस्या समोर तुम्ही दारु पिवुन आले व विनाकारण बडबड केली. त्यामुळे तंटामुक्त गांव समितीच्या सदस्यांनी तुमच्या हया गैरवर्तनाबाबत नाराजी व्यक्त केली. तसेच तुम्ही दिनांक २७.१२.०७ चे रात्री मौजा आष्टा येथे कव्वालीचा कार्यक्रम सुरु असतांना तेथे दारु पिवुन गेले व तेथील लोकांसोबत उध्दटपणे बोलुन शांतता व सुव्यवस्थेचा प्रश्न निर्माण केला.
३. दिनांक ८.१.०८ रोजी राळेगांव येथे राजीव क्रिडा संकुलाचे मैदानावर चालु असलेल्या जि.प. शाळेच्या विद्यार्थी यांच्या क्रिडा व सांस्कृतीक कार्यक्रमाचे वेळी कार्यक्रम चालु असतांना तेथे बंदोबस्ता करिता असलेल्या कर्मचारी समक्ष रात्री २१.३० वा. चे दरम्यान कार्यक्रमाचे ठिकाणी जावुन स्टेज समोर व मैदानावर दारु पिवुन जोर जोरात ओरडुन नाचले व कर्मचारी यांना सुध्दा न जुमानता स्टेजवर चढुन कार्यक्रमाकरिता आलेल्या एका मुलीचा हात धरुन तिचे सोबत असभ्य वर्तन केले. पुन्हा स्टेज समोर येवुन लघवी केली.

हया तुमच्या बेपर्वाह गैरशिस्त वर्तनामुळे पोलीस खात्याची प्रतिमा जनमानसासमोर मलीन झाली. या तुमचे गंभीर कसुरी संबंधाने.

The Inquiry Officer conducted inquiry and submitted report (Annexure A-3). He concluded –

अशा रितीने विभागिय चौकशीत अपचारी पोशि / ७३० गुणवंता राठोड सध्या निलंबित नेमणुक पोलीस मुख्यालय यवतमाळ यांचे विरुध्द चे विभागिय चौकशीत ठेवण्यात आलेले दोषारोप क्र.१ ते ३ हे वर नमुद केल्याप्रमाणे सरकारी साक्षीदार यांनी उलट तपासणीत दिलेल्या प्रश्नाचे उत्तरावरून तथा विभागिय चौकशीतील शासकिय दस्ताऐवजा चे आधारे सिध्द झालेले आहे.

The applicant was served with a show caused notice dated 30.09.2008 (Annexure A-4) proposing punishment of dismissal from service to which the applicant submitted a detailed reply dated 12.10.2008 (Annexure A-5). The disciplinary authority then passed the order dated 01.11.2008 (Annexure A-6) as follows-

अंतीम आदेश

मी पोलीस अधिक्षक, यवतमाळ मुंबई पोलीस (शिक्षा व अपील) नियम १९५६ च्या नियम -३ अन्वये असलेल्या अधिकारानुसार पोशि/७३० गुणवंत सुका राठोड, (सद्या निलंबित) पो.मु.यवतमाळ हयांना हा आदेश प्राप्त झाल्याच्या तारखेपासुन “ पोलीस दलातुन बडतर्फ ” (Dismissal from Service) करण्यात येत आहे.

तसेच त्यांचा निलंबन कालावधी सर्व प्रयोजनार्थ “जसाचे तसा” म्हणजे निलंबनाचा ठरविण्यात येत आहे.

त्यांची इच्छा असल्यास ते या आदेशाविरुध्द ६० दिवसाचे आत विशेष पोलीस महानिरिक्षक अमरावती हयांना आमचे कार्यालयामार्फत अपील अर्ज २ प्रती मध्ये सादर करू शकतात.

अंतीम आदेशाची पोच द्यावी.

The appeal preferred by the applicant against order of dismissal was decided by respondent no.3 who proceeded to pass the following order on 15.01.2011 (Annexure A-7)-

पोशि /७३०, गुणवंत सुका राठोड, नेमणुक यवतमाळ जिल्हा पोलीस दल यांना पोलीस अधिक्षक, यवतमाळ यांचे आदेश क्र.डिपी/३१-बी/वि.चौ. /७३०/२००८, दि.०१.११.२००८ अन्वये “पोलीस दलातून बडतर्फ ” (Dismissal from Service) केल्याचे या शिक्षेमध्ये अशंत: बदल करून त्या ऐवजी त्यांना त्याच तारखेपासून शासकिय सेवेतून सक्तीने सेवानिवृत्त करणेची शिक्षा देण्यात येत आहे.

त्यांची इच्छा असल्यास ते हा आदेश प्राप्त झाल्याच्या दिनांकापासून ६० दिवसाचे आत पोलीस महासंचालक, म.राज्य, मुंबई यांचेकडे फेरतपासणी अर्ज सादर करू शकतात.

The applicant challenged order of the Appellate Authority before respondent no.2 by filing a Review Application (Annexure A-8). On 24.06.2011 respondent no.2 passed the following order (Annexure A-9)-

पोशि/७३० गुणवंत सुका राठोड यवतमाळ जि.पो.दल यांना विशेष पोलीस महानिरीक्षक, अमरावती परिक्षेत्र, अमरावती यांनी अपिल आदेशात कायम केलेली शासकीय सेवेतून सक्तीने सेवानिवृत्त ह्या शिक्षेत काहीएक बदल न करता दिलेली शिक्षा कायम ठेवण्यात येत असुन त्याविरोधात केलेला फेर अपिल अर्ज फेटाळण्यात येत आहे.

सदर आदेशाविरुध्द अपिल अनुज्ञेय नाही.

The applicant then preferred mercy appeal (Annexure A-10) before respondent no.1 but to no avail.

In the aforesaid background the O.A. came to be filed. The applicant died during pendency of the O.A. Since then the cause is being prosecuted by his L.R.s.

3. Reply of respondent no.4 (at pp.77 to 80) contains following averments. The applicant was punished five times before being charge sheeted in this case (Annexure R-1). On the basis of confidential report (at pp.87 to 89) and report of Preliminary Inquiry (Annexure R-3) indicting the applicant of gross indiscipline, he was suspended. Inquiry was properly conducted. Appropriate punishment was imposed. Hence, no interference by this Tribunal is called for.

4. It was argued by Shri S.P.Palshikar, learned Advocate for the applicant that in the order of suspension only one charge was mentioned whereas in the charge sheet there were three charges. We have quoted relevant portions of order of suspension as well as charge sheet. We have also referred to the confidential report as well as Preliminary Inquiry which was conducted before the applicant was charge sheeted. It is not necessary that charges in charge sheet and allegation in order of suspension should be exactly identical. The

charge sheet, in addition to the allegation mentioned in the order of suspension, refers to two more charges. It can be gathered that the additional two charges contained in the charge sheet were based on what was revealed through confidential report and Preliminary Inquiry.

5. It was further argued by Advocate Shri S.P.Palshikar, that this was a case of "No evidence" and hence the applicant ought to have been exonerated. In support of this submission attention is invited to answers given in the negative by witness no.1 to the question whether he had witnessed the incidents dated 07.01.2008 and 08.01.2008, answer given in the negative by witness no.2 to the question whether he had informed his superiors about the incident dated 08.01.2008, answer given in the negative by witness no.3 to the question whether he had seen the applicant misbehaving with a girl and urinating in front of the stage, answer given by witness no.7 to the question that the applicant was not medically examined to find out whether he was under the influence of liquor. Considering these answers as well as answers given by the witnesses which fully supported case of the department, the Inquiry Officer held all three charges to be proved. The Disciplinary Authority agreed with the Inquiry Officer. The findings as well as punishment given by the

Appellate Authority were maintained. The inquiry did not suffer from any procedural lacuna. By no stretch of imagination this case can be said to be a case of “No evidence”. The punishment cannot be said to be shockingly disproportionate to the charges proved. Hence, no interference in exercise of powers of judicial review is called for. The O.A. is accordingly dismissed with no order as to costs.

(M.A.Lovekar)  
Member (J)

(Shree Bhagwan)  
Vice Chairman

Dated – 07/12/2022



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

Name of Steno : Raksha Shashikant Mankawde  
Court Name : Court of Hon'ble Vice Chairman &  
Court of Hon'ble Member (J) .  
Judgment signed on : 07/12/2022.  
and pronounced on  
Uploaded on : 08/12/2022.