

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI  
ORIGINAL APPLICATION NO.1137 OF 2018**

**DISTRICT : SOLAPUR**

Shri Dipak Jotiram Patil, )  
Age 42 years, Assistant Police Inspector, )  
Karkhamb Police Station, Taluka Pandharpur, )  
District Solapur and residing at Post Savarde, )  
Tehsil Tasgaon, District Sangli, Maharashtra )..Applicant

Versus

1. The Superintendent of Police, )  
Solapur (Rural), District Solapur )
2. The Special Inspector of Police, )  
Kolhapur Range, Kolhapur, Maharashtra )
3. The Director General of Police, M.S., )  
Shahid Bhagat Singh Road, Colaba, Mumbai )
4. Shri Veeresh Prabhu, )  
Additional C.P. (Traffic), Mumbai )..Respondents

Shri D.B. Khaire – Advocate for the Applicant

Ms. Neelima Gohad – Presenting Officer for the Respondents

CORAM : Shri P.N. Dixit, Vice-Chairman (A)  
RESERVED ON : 28<sup>th</sup> August, 2019  
PRONOUNCED ON : 29<sup>th</sup> August, 2019

### **J U D G M E N T**

1. Heard Shri D.B. Khaire, learned Advocate for the Applicant and Ms. Neelima Gohad, learned Presenting Officer for the Respondents.

2. The applicant is aggrieved by the impugned order issued by respondent no.2 (I.G. Kolhapur) (Exhibit A page 26-29 of OA) and impugned order dated 4.2.2018 issued by respondent no.1 (Exhibit I page 152-153 of OA).

3. Respondent no.1 had issued the impugned order punishing the applicant by holding back his annual increments for a period of two years and treat the suspension period from 31.3.2016 to 6.6.2016 as suspension period. Respondent no.2 modified the same and held back one increment without impacting future increments.

4. The applicant has prayed to quash and set aside the impugned order passed by respondent no.2 and respondent no.1.

5. The grounds furnished by the applicant in support of his claim are summarized below:

(i) Though the order of punishment against him was issued on 4.2.2018, his increments were held back for the year 2017 and 2018 which was prior to the date of issue of the order.

- (ii) The power of suspending the applicant rested in Inspector General but he was suspended by Superintendent of Police and the latter was not a competent officer for doing so.
- (iii) Instead of holding joint enquiry against the applicant and other delinquents, enquiry was held only against him.
- (iv) The order issued by the Judicial Magistrate First Class (JMFC) to produce confiscated fire crackers was issued on 23.2.2016, but the Court Orderly kept the same with himself till 26.2.2016. As such the applicant was not responsible for the same.
- (v) The applicant did not put any pressure on his subordinates to give evidence in his favour during the Departmental Enquiry (DE).
- (vi) The applicant did not use any words unbecoming of a police officer.
- (vii) The entries made by the applicant in the Police Station Diary were as per the Police Manual and he cannot be held responsible for the same.
- (viii) After seizing the fire crackers he had approached JMFC but the JMFC expressed his inability to pass any order. Thereafter the applicant approached Sessions Court which directed the JMFC to decide the application. The applicant claims that thus he had shown due diligence and taken necessary steps to dispose off the fire crackers.
- (ix) The applicant had written a letter to respondent no.1 seeking guidelines for disposing off the crackers. But he did not receive any

directions. He requested dealers selling fire crackers to store the fire crackers in their godown but it was refused.

(x) The enquiry officer has imposed minor penalty, and hence his period of suspension should be treated as on duty.

(xi) The applicant claims that respondent no.1 has acted vindictively and, therefore, the order is malafide.

6. Respondent no.1 has filed affidavit in reply and contested the submissions made by the applicant. These may be summarized as under:

(i) Repeated directions were issued on wireless and through WhatsApp and in crime meeting to dispose off inflammable and explosive muddemal. However, no sincere efforts were made by the applicant and the applicant had displayed gross negligence towards the seized fire crackers. The CA report of the seized explosive fire crackers material was received on 30.6.2014 and it was charge sheeted on 30.8.2014. Though it was prime duty of the applicant to dispose off inflammable fire crackers muddemal after charge sheet or store these safely, the applicant did not make sincere efforts. As a result of his gross negligence as incharge of the Police Station, the fire incident took place.

(ii) The applicant cannot shift his responsibility under the cover that there is no mention in Inspection Notes by seniors about the disposal of explosive materials.

(iii) On 30.3.2016 fire crackers stored in the police station caught fire and 29 seized valuable motor cycles were totally damaged. Thereafter respondent no.1 (Superintendent of Police) noticed that

no sincere efforts have been made by the applicant to dispose these off and hence suspended the applicant after preliminary enquiry (Exhibit R-1).

(iv) The appeal against suspension needed to be routed through respondent no.1 to respondent no.2. The applicant concealed many facts with a view to interfere in the preliminary enquiry.

(v) In the interest of natural justice the applicant was attached to Police Head Quarters.

(vi) After the applicant received the court orders from Court Orderly, the applicant endorsed on the said copy and kept the same with himself and did not forward it or gave instructions.

(vii) The Court Orderly filed written complaint against the applicant on 2.4.2016 and independent Sub-Divisional Police Officer (SDPO) was directed to enquire into the same. The enquiry report shows that the applicant abused his position to pressurize subordinates and create fear in their mind. The enquiry officer concluded that there was no fault on the part of the Court Orderly and Muddemal Clerk.

(viii) After SDPO completed the enquiry and being satisfied that charges against the applicant stand proved, show cause notice was issued by respondent no.1 to which applicant submitted written reply. As the charges were proved and found to be true, respondent no.1 had imposed the punishment of stoppage of increment for a period of two years.

(ix) The impugned order issued on 14.11.2018 is not illegal or has not been issued with malafide intention. The impugned order has been issued by the respondent, by invoking powers under Rule 3 of Maharashtra Police (Punishment & Appeal) Rules, 1956 and only after perusal of the enquiry report and only after confirmation, that all charges against the applicant have been proved in the departmental enquiry.

(x) All charges against the applicant have been proved in the departmental enquiry whereas the order was modified by the respondent no.2 invoking appellate jurisdiction. Hence the say of applicant that execution and implementation of the order of punishment imposed by respondent no.1 and thereafter partial modification of the same by the respondent no.2 amounts to double jeopardy, is baseless.

(xi) As far as entries in the Police Station Diaries are concerned, as per the provisions of Police Manual Part-3, Rule 226(1)(j) & (1) the Police Station Officer is authorized to make only relevant entries in the station diary. The applicant misused the Government documents by making erroneous entries in personal rage. This act of applicant is serious in nature.

(xii) It is not true to say that, there is no remedy available to the applicant, under service rules, therefore except the application there is no alternative and efficacious remedy available to the applicant.

(xiii) The applicant has remedy to file appeal against the order of respondent no.2 before DGP, Maharashtra State. The applicant does not avail the remedy to file appeal before DGP, Maharashtra State and directly approached and filed the Original Application

before this Tribunal. Therefore the application is liable to be dismissed.

7. The respondent has, therefore, submitted that the OA is devoid of any merit and be dismissed.

8. Original Application pertains to the factual position regarding whether the applicant was diligent in discharging his responsibilities as incharge of the police station in disposing off the seized crackers which was highly inflammable material. Ld. Advocate for the applicant submitted that there is no other legal issue involved in the same. Ld. Advocate for the applicant also submitted that he had the forum available to him for filing Review Application before the Director General of Police which he has not availed.

9. In the departmental enquiry, the applicant had submitted his say and he was heard personally as well. As such; there is no grievance about procedural lapses and principles of natural justice. The charges against the applicant are proved and punishment imposed cannot be treated as grossly unrelated. The applicant cannot blame others for the lapses and has to be held liable for the same. Applicant has failed to demonstrate any sound reasons for interfering in the impugned orders.

10. Hence, for above reasons, Original Application is dismissed, as it is devoid of any merits. No order as to costs.

Sd/-  
**(P.N. Dixit)**  
**Vice-Chairman (A)**  
**29.8.2019**

Dictation taken by: S.G. Jawalkar.