

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.726 OF 2018

DISTRICT : PUNE

Shri Deepak Vasudeo Sidam,)
Age 44 years, occ. Nil, R/at 113, Bapu Nagar,)
Umred Road, Nagpur)..Applicant

Versus

1. The State of Maharashtra,)
Through the Secretary,)
Law and Judiciary Department,)
Mantralaya, Mumbai 400032)
2. The Registrar of Partnership Firms, MS,)
New Administrative Building, 6th floor,)
Near Chetna College, Sharada Devi Road,)
Govt. Colony, Bandra (East), Mumbai)
3. The Assistant Registrar of Partnership Firms,)
Behind Lokesh Hotel, Satara Road, Pune)
4. Shri Girish Dinkar Kurne,)
In the office of Registrar of Firms,)
New Administrative Building, 6th floor,)
Near Chetna College, Sharada Devi Road,)
Govt. Colony, Bandra (East), Mumbai)..Respondents

Shri K.R. Jagdale – Advocate for the Applicant

Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Smt. Medha Gadgil, Member (A)
RESERVED ON : 7th February, 2023
PRONOUNCED ON: 28th March, 2023
PER : Smt. Medha Gadgil, Member (A)

J U D G M E N T

1. In this matter the applicant who was working as Senior Clerk in the office of Respondent No.2 was dismissed from service by order dated 18.12.2012 as a result of enquiry. The applicant is challenging the order of appellate authority dated 2.6.2018 confirming his dismissal.

2. The order of dismissal dated 18.12.2012 was challenged earlier before the appellate authority. The said authority earlier has rejected the appeal by order dated 20.2.2014. Thereafter OA No.332/2014 was filed. Dismissal order was set aside by this Tribunal by order dated 20.7.2015. The said order was challenged by the State in the Hon'ble High Court in W.P. No.8394 of 2015 and the said writ petition was partly allowed. However, the order of the Tribunal was set aside by the Hon'ble High Court by its order dated 9.4.2018 thereby directing the appellate authority to hear and decide the appeal. Subsequently the appellate authority confirmed the order of dismissal and dismissed the appeal by order dated 2.6.2018 which is also subject matter in this OA.

3. DE was initiated after issue of charge sheet on 9.5.2012 for charges of misconduct i.e. four unexplained entries of Rs.500/- which were

deposited in the salary account of the applicant in State Bank of India when he was working as Senior Clerk in the office of respondent no.2.

4. Ld. Advocate for the applicant argued that the employees working with the applicant viz. Smt. S.G. Bhosale, Shri V.V. Bhosale, Smt. A.M. Ranpise & Shri G.J. Supe filed frivolous and bogus compliant applicant before the respondent no.2 alleging that the applicant had accepted the amount of Rs.500/- each from the parties and asked the parties to send their documents in his personal name at the office address. The respondent no.2 called upon the applicant to submit his explanation to the allegation in the said complaint. On the same day i.e. on 9.5.2012 the suspension order was issued and respondent no.2 served charge sheet on the applicant alleging that while working in the office of respondent no.3, Rs.500/- each has been deposited in the salary account of applicant in State Bank of India, Pune from Kolhapur and Nagpur. Along with the charge sheet respondent no.2 furnished 3 envelopes which were received in the office.

5. After order dated 9.4.2018 was passed by the Hon'ble High Court the Appeal No.3 of 2013 preferred by the applicant was freshly decided by Principal Secretary & RLA and Appellate Authority, Law & Judiciary Department, Mantralaya by order dated 2.6.2018 dismissing the appeal. This order has been challenged by the applicant in the present OA.

6. Ld. Advocate for the applicant submits that impugned order dated 2.6.2018 is issued malafide and illegal. He pointed out many deficiencies in the enquiry. He stated that the enquiry officer failed to consider that the envelopes were received and opened by complainants behind the back of the applicant. The Enquiry Officer failed to consider that the applicant had forwarded several letters dated 11.5.2011, 13.5.2011, 13.9.2012 and 27.9.2012 to the State Bank of India seeking information about the

identity of the persons who had deposited the amounts in the bank. He further pointed out that Mr. Rohit Paranjape was called in the DE and on 5.3.2011 he submitted a letter that applicant had never demanded any money from him. Similar letter was received from M/s. Amrut Metals who also stated that applicant had never demanded money from him.

7. Ld. Advocate for the applicant has relied on the following judgments:

(i) Sher Bahadur Vs. Union of India & Ors. Civil Appeal No.5055 of 2022 decided by the Hon'ble Supreme Court on 16.8.2002, AIR 2002 SC 3030.

(ii) Collector Singh Vs. LML Ltd. Civil Appeal No.10125/2015 decided by the Hon'ble Supreme Court on 11.11.2014, (2015) 2 SCC 410.

(iii) State of U.P. Vs. Shatrughan Lal & Anr, Civil Appeal No.2469 of 1982 decided by the Hon'ble Supreme Court on 30.7.1998.

(iv) Director (Mkt.) Indian Oil Corpn. Ltd. & Anr. Vs. Santosh Kumar, Civil Appeal No.6979 of 2004 decided by the Hon'ble Supreme Court on 23.5.2006, (2006) 11 SCC 147.

8. Ld. CPO relied on paras 47 and 48 of the said order dated 2.6.2018 passed by Principal Secretary & RLA and Appellate Authority, Law & Judiciary Department, Mantralaya in appeal preferred by the applicant, which reads as under:

"47. No fault can be found with aforesaid approach of the disciplinary authority. Grave misconduct of the nature of accepting money as a favor for official work doesn't brook any leniency. In the

case of UP State Road Transport Corporation Vs. Suresh Chand Sharma (2010) 6 SCC 555, the Supreme Court had laid down the law as under:

“23. In NEKRTC v. H. Amresh and U.P. SRTC v. Vinod Kumar this Court held that the punishment should always be proportionate to the gravity of the misconduct. However, in a case of corruption/misappropriation, the only punishment is dismissal.”

48. In view of the aforesaid legal position, no interference is warranted even with regard to the penalty imposed upon the delinquent by the disciplinary authority. Hence, I am persuaded to answer Point No.3 in the negative.”

9. In Sher Bhadur (supra) the question revolves around “sufficiency of evidence”. In this case facts showed that the EO found the appellate guilty without any evidence. Collector Singh (supra) deals with disproportionality of the punishment. In this case it was held that applicant’s punishment of dismissal from service was disproportionate to the act of misconduct proved against the applicant. In State of U.P. Vs. Shatrughan Lal (supra) the issue revolves around the principles of natural justice being violated. It was held that the delinquent officer was not given sufficient opportunity of being heard which violated the proceedings. In Director (Mkt.) IOCL (supra) it is stated that order of punishment as well as that of the appellate authority was cryptic and not speaking and liable to be set aside on the ground of non application of mind.

10. The present case has had a long chequered history and considering the facts of this case it is crystal clear that DE was conducted in a fair and impartial manner following the principles of natural justice. Accepting

money as a favour for official work is a grave misconduct and we cannot find any fault with the approach of the disciplinary authority. For the above reasons the OA deserves to be dismissed.

11. Original Application is dismissed. No order as to costs.

Sd/-

(Medha Gadgil)
Member (A)
28.3.2023

Sd/-

(Mridula Bhatkar, J.)
Chairperson
28.3.2023

Dictation taken by: S.G. Jawalkar.

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