

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No.76 of 2024 (D.B.)**

Sanjay Vitthalrao Tekade,
age about 55 years, R/o Shrikrushna Colony,
Tompe Nagar, Chandur Bazar,
District: AMRAVATI.

Applicant.**Versus**

- (1) The State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai-32.
- (2) Special Inspector General of Police,
Amaravati [परिक्षेत्र] District Amravati.
(विशेष पोलीस महानिरीक्षक, अमरावती परिक्षेत्र, अमरावती)
- (3) Superintendent of Police Gramin [ग्रामिन],
Amravati. District, AMRAVATI.

Respondents.

**S/Shri Bharat Kulkarni, Sunil Pande, Advocates for the applicant.
Shri M.I. Khan, learned P.O. for respondents.**

**Coram :-Hon'ble Shri Justice M.G. Giratkar, Vice Chairman and
Hon'ble Shri Nitin Gadre, Member (A).**

Date of Reserving for Judgment : 10th December,2024.

Date of Pronouncement of Judgment : 17th December,2024

JUDGMENT**Per : Member (A).****(Delivered on this 17th day of December,2024)**

Heard Shri Bharat Kulkarni, learned counsel for the applicant
and Shri M.I. Khan, learned P.O. for the respondents.

2. The applicant has filed the present O.A. on 29/01/2024 to quash and set aside the punishment orders imposed by the respondents.

3. The material portion of the O.A. is as follows –

The applicant was working as Assistant Police Sub- Inspector at Police Station, Anjangaon, District Amravati. The applicant joined in the Police Department on 04-08-1989 as Police Constable. He has completed 34 years of unblemished service. The applicant was due for retirement on superannuation in February,2027. Near about period 3 to 4 years of service is remaining. It is submitted that the order of punishment of compulsory retirement was passed on 21/12/2023 in the appeal by respondent no.2, i.e., the Special Inspector General of Police, Amravati. The applicant is presently under the punishment order of compulsory retirement from 21/12/2023. The Superintendent of Police (Gramin), Amravati, i.e. respondent no.3 has issued the punishment order dated 14/07/2023 for Removal from Service which is modified in appeal by respondent no.2 as per order dated 21/12/2023 into compulsory retirement. The punishment order is issued without proper opportunity given to the applicant by respondent no.3. The punishment order dated 21/12/2023 of respondent no.2 and order dated 14/07/2023 of respondent no.3 are illegal and liable to be quashed. It is submitted that the departmental inquiry is not conducted as per the Rules. The DE Officer female is not appointed as Inquiry Officer for lady complaint. No FIR in this case to prove the complaint.

4. The relief sought by the applicant is as follows –

“(9) (A) Quash and set aside the punishment order dated 21/12/2023 of respondent no.2 in appeal and the order dated 14/07/2023 passed by respondent no.3 removal from service [Annexure:A-1& 2]

(B) Direct the respondents to reinstate the applicant in service immediately.

(C) Declare the suspension period as suspension is illegal and the same may be quashed & set aside.”

5. The respondent no.3 has filed a reply on 28/08/2024. The respondent no.2 has also filed a reply dated 25/7/2024 explaining why the severe punishment was imposed on the applicant. The relevant portion of the reply by respondent no.2 is as follows –

“(3) It is submitted that at Chikhaldara police station of sub-division Dharni bandobast was deployed to maintain law and order from dt.14/08/2022 to 15/08/2022 at Dhargad for yatra during the said bandobast at the night of 14/08/2022 when the men police amaldars, one lady officer, lady police constables were sitting in the tent and discussing on some topic, at that time applicant passed some indecent comment on lady officer Madhuri Umbarkar and said that you should take off your shirt. He also uttered comment three times to the lady police officer in front of all other policemen and lady constables. He also tried to touch lady police constable when they were sleeping. Due to such indecent behaviour of applicant, there was feeling of insecurity and fear in the mind of lady police officer and lady constables while they were on duty. These criminal acts and indecent behaviour of applicant shows clear cut act of moral turpitude as well as indiscipline behaviour of the applicant which had defamed image of police force in the minds of public. Such indecent behaviour of applicant with lady police officers/colleagues is unacceptable.

(5) It is submitted that in above mentioned default of applicant the respondents was initiate departmental inquiry has been conducted dt. 25/11/2022 against the applicant by Superintendent of Police, Amravati, Rural and also issued the charge sheet to the applicant. After the department enquiry, charges against the applicant was has proved as per provisions of rule 3(1) of police (Discipline and apples) rule 1956. Charges against applicant are proved and hence show cause notice was given to him which is accepted by the applicant dt. 26/5/2023. After perusal of the explanation submitted by applicant which does not seems coherent and found that behaviour of applicant is indiscipline negligent and on large scale moral turpitude on duty, so that Superintendent of Police, Amravati Rural had awarded punishment "Removal from Service" on dt. 14/07/2022 and suspension period from 25/08/2022 to 22/04/2023 has been treated as such."

6. It seems that the departmental inquiry was conducted against the applicant and punishment of removal from service was imposed on 14/07/2023 by the Superintendent of Police, Amravati. This order was subsequently modified in the first appeal by the Inspector General of Police, Amravati by his order dated 21/12/2023 and a punishment of compulsory retirement was imposed. This disciplinary action was taken on the basis of complaints by lady officer regarding indecent behaviour. However, as per the Hon'ble Supreme Court decision, the inquiry should have been conducted by the Committee specially constituted in every department to conduct inquiry into complaints by lady officers regarding sexual harassment. From the records, it seems that no such enquiry by a specially constituted committee has been conducted. Also, no FIR has been filed in this regard.

Respondent no.2 has further stated in his reply that the applicant should have filed a second appeal before the Director General of Police, Mumbai. However, the applicant has not filed any such appeal and has directly approached to the M.A.T.

7. It seems that the applicant has directly approached the Tribunal without resorting to the remedy of filing a second appeal which he could have filed with the Director General of Police. The Section 20 of the Maharashtra Administrative Tribunals Act,1985 is reproduced as follows –

“20. Applications not to be admitted unless other remedies exhausted –

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,-

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the

Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial.”

8. Hence, the following order –

ORDER

(i) The O.A. is disposed of.

(ii) The applicant is instructed to file an appeal before the Director General of Police / appropriate Appellate Authority within 30 days from the date of this order and the Director General of Police / appropriate Appellate Authority should take decision on his application within three months from the date of receipt of his application.

(iii) No order as to costs.

(NitinGadre)
Member(A).

(Justice M.G.Giratkar)
Vice Chairman.

Dated :- 17/12/2024.

dnk.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman and Member (A).

Judgment signed on : 17/12/2024.