

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No.439 of 2023 (S.B.)**

Shital D/o Deepakrao Hirode,  
Aged about 35 years, Occupation-Service,  
R/o Near Green Valley Apartment, Saigajanan Colony,  
Uday Nagar, Amravati, Tah. and District- Amravati.

**Applicant.**

**Versus**

- (1) The State of Maharashtra,  
Through Secretary, Home Department,  
Mantralaya, Mumbai-32.
- (2) Director General of Police,  
Police Headquarter, Shahid Bhagat Singh Marg,  
Colaba, Mumbai.
- (3) Deputy Commissioner of Police,  
Zone No.4, Nagpur City.

**Respondents.**

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**Shri M.R. Khan, Advocate for the applicant.**

**Shri A.P. Potnis, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated :- 05/08/2024.**

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**JUDGMENT**

Heard Shri M.R. Khan, learned counsel for the applicant  
and Shri A.P. Potnis, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant was initially appointed as a Police Sub  
Inspector through M.P.S.C. on 01/10/2012. She was posted at

Imamwada Police Station in the month of October, 2013, after completion of her training. Thereafter she was transferred in the month of July, 2015 to Sakkardara Police Station. She worked at Sakkardara Police Station till 2017. The applicant was promoted on the post of Assistant Police Sub Inspector and was posted at Anti Human Trafficking Cell, Amravati since 03/04/2021. At present the applicant is working at Amravati. The applicant has rendered 11 years of continuous service with the Police Department.

3. The applicant was shocked after receiving the impugned order dated 05/05/2017 wherein the increments of the applicant for two years have been withheld with cumulative effect. The applicant was further directed to file appeal, if she wants. The applicant preferred the appeal before respondent no.2. The said appeal was dismissed by respondent no.2 mechanically on 16/12/2017. Hence, the applicant approached to this Tribunal for the following reliefs –

*“ (9) (A) quash and set aside the impugned order passed by the Deputy Commissioner of Police, Zone No.4, Nagpur City, on 5/5/2017 (Annexure-A1), in the interest of justice;*

*C) Quash and set aside the impugned order passed by the Additional Director General of Police (Administration), Maharashtra State, Mumbai, on 16/12/2017 (Annexure-A3), in the interest of justice;*

*D) Issue an appropriate order or directions to the Home Department, Mantralaya, Mumbai to decide the review appeal on 22/2/2021 (Annexure-A6) in the interest of justice.*

4. The O.A. is strongly opposed by respondents by filing reply of respondent no.3. It is submitted that the applicant was habitual to proceed on medical leave whenever her duty was necessary. In para-5 of reply of respondent no.3, it is submitted that the Assistant Commissioner of Police, Sakkardara Police Station submitted report on 27/02/2017. Thereafter, after satisfying from the preliminary enquiry report, show cause notice was issued to the applicant on 18/03/2017 by respondent no.3. The applicant replied to the show cause notice dated 03/05/2017. The applicant failed to give satisfactory explanation as to why she remained absent and proceeded on medical leave. Respondent no.3 being satisfied on the preliminary inquiry report that the applicant was in habit of availing leave, when she was serving in the Police Station, Sakkardra and Imamwada, Nagpur. In her 5 years of service period, she went 8 times on medical leave and hence there is no need to held departmental inquiry while imposing impugned order. Therefore, it is specifically denied that respondents all of a sudden without following the due procedure of law passed the impugned order. It is submitted that the respondents have imposed a minor punishment and therefore there

was no need of any departmental inquiry. Hence, the O.A. is liable to be dismissed.

5. There is no dispute that the applicant is a female employee. The learned P.O. has pointed out the Chart of leave availed by the applicant. From the perusal of the Chart, it appears that for two times she availed leave at the time of police bandobast from 30/10/2016 to 07/11/2016 and from 15/12/2016 to 20/12/2016. Thereafter, she was on medical leave for some occasions. From the perusal of the Chart filed along with reply, it appears that she was not on long medical leave.

6. After passing the order by respondent no.3, appeal was preferred before respondent no.2. The copy of order of respondent no.2 is filed on record. From the perusal of order of respondent no.2, it appears that it is mechanical order. It appears that this order is a copy paste. The material portion of the order is reproduced below –

“पोलीस उप निरीक्षक शितल दिपकराव हिरोडे यांचा अपिल अर्ज, अपिल अर्जावरील मुद्देनिहाय अभिप्राय व कागदपत्रांचे अवलोकन केले असता, पोउनि हिरोडे यांना कर्तव्यावर वारंवार गैरहजर राहण्याची सवय असल्याचे दिसून येते. तसेच जेव्हा त्यांना वाटेल तेव्हा त्या रुग्णनिवेदनाची नोंद करून रजा घेतात. पोलीस उप आयुक्त, परि.४, नागपूर यांच्या अभिलेखानुसार ५ वर्षांच्या सेवेत आतापर्यंत ८ वेळा त्यांनी बंदोबस्ताच्यावेळी रुग्णनिवेदन केल्याचे नमुद केले आहे. यास्तव पोलीस उप आयुक्त, परि.५, नागपूर यांनी पोउनि सोनवणे यांना दिलेली "रु.५०००/- आर्थिक दंड" ही शिक्षा त्यांचे कसुरीच्या प्रमाणात योग्य असल्याचे माझे मत झाले आहे. यास्तव म्हणून मी पुढील प्रमाणे आदेश देत आहे :

-: आदेश :-

मी, डॉ. प्रजा सरवदे, अपर पोलीस महासंचालक (प्रशासन), महाराष्ट्र राज्य, मुंबई या आदेशाव्दारे पोलीस उप निरीक्षक शितल दिपकराव हिरोडे यांचा अपील अर्ज फेटाळत आहे.

२. सदर शिक्षेने अपिलार्थी व्यथित होत असतील तर हे आदेश मिळाल्याच्या दिनांकापासून ६० दिवसांचे आत शासनाकडे योग्य मार्फतीने फेर अपिल अर्ज सादर करू शकतात.”

7. The name of applicant is Shital D. Hirode, but it is mentioned in the order that one P.S.I. Sonwane was fined of Rs.5,000/- and punishment of Rs.5,000/- imposed against him was perfectly correct. The applicant was never fined of Rs.5,000/-. Therefore, it appears that this order is a copy paste order of other employee. The respondent no.2 has not applied its mind while deciding the appeal.

8. The respondent no.3 imposed punishment order of stoppage of two increments with cumulative effect. The Hon'ble Supreme Court in the case of **Kulwant Singh Gill Vs. State of Punjab, 1991 Supp (1) SCC,504** has held that “withholding of increments of pay simpliciter is a minor penalty under Rule 5 (iv) of the Punjab Civil Services (Punishment and Appeal) Rules. But sub-rule (v) postulates reduction to a lower stage in the time scale of pay for a specified period with further directions as to whether or not government employee shall earn increments of pay during the period of such reductions and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay. It is a major penalty.”

9. The Hon'ble Bombay High Court, Bench at Nagpur in the case of ***Harish Gajanan Agrawal Vs. Bank of Maharashtra & Ors., 2006 (3) Bom. C.R. 491*** has held that "punishment of withholding two increments with cumulative effect is a major penalty though it is included in a minor penalty still the said punishment virtually amounts to reduction in lower stage in a time scale provided in Regulation 4 (e) and is a major penalty. Punishment imposed without conducting any enquiry or without following procedure, in view of Apex Court, order of Disciplinary Authority is not tenable in law and therefore quashed and set aside." There is no dispute that there was no any departmental enquiry against the applicant. There is no dispute that two increments of the applicant are permanently stopped. It amounts to reduction in lower stage in time scale of the applicant and therefore it is a major penalty. In view of the Judgments of the Hon'ble Supreme Court and Hon'ble High Court cited supra, the respondents should have held the departmental enquiry before passing the impugned order. In the present matter without conducting any departmental enquiry, the impugned order is passed by the respondents. Hence, the following order –

### **ORDER**

(i) The O.A. is allowed.

(ii) The impugned order dated 05/05/2017 passed by the Deputy Commissioner of Police, Zone No.4, Nagpur City and order dated 16/12/2017 passed by the Additional Director General of Police (Administration), M.S., Mumbai are hereby quashed and set aside.

(iii) The respondents are directed to release all the consequential benefits to the applicant within a period of three months from the date of receipt of this order.

(iv) No order as to costs.

**Dated** :- 05/08/2024.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

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.

Judgment signed on : 05/08/2024.