

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 989 OF 2019

DISTRICT:- HINGOLI

Raviraj S/o Ramgopal Darak
Age : 35 years, Occ: service,
R/o Deodanagar, Hingoli,
Tq: & Dist: Hingoli.

.. **APPLICANT**

V E R S U S

1. The State of Maharashtra,
Through its Secretary,
Urban Development Dept.,
Mantralaya, Mumbai.

2. Collector,
Dept Nagarpalika Administration
Collector Office, Hingoli.

3. Divisional Commissioner,
Aurangabad Division,
Aurangabad.

.. **RESPONDENTS**

APPEARANCE : Shri Vivek Bhavthankar, learned counsel
for the applicant.

: Shri I.S. Thorat, learned Presenting
Officer for the respondent authorities.

CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN

DATE : 08.02.2023

O R A L O R D E R

Heard Shri Vivek Bhavthankar, learned counsel for the
applicant and Shri I.S. Thorat, learned Presenting Officer for the
respondent authorities.

2. The applicant has filed the present Original Application seeking quashment of the order dated 7.2.2019, whereby punishment has been imposed on the applicant stopping his one increment for one year.

3. Shri Vivek Bhavthankar, learned counsel appearing for the applicant has assailed the impugned order on mainly two grounds. First that the Collector was not the competent authority for passing such order since he is not appointing or disciplinary authority of the applicant. Learned counsel submitted that so far as employees working in the establishment of Municipal Council like present applicant are concerned, the District Administrative Officer is the disciplinary authority. Learned counsel submitted that since the order has been passed not by the disciplinary authority, the same is liable to be vitiated on that ground alone; and second ground is that principles of natural justice have not been followed while issuing the order of punishment. Learned counsel submitted that even after repeatedly asking for the documents, respondents did not provide the said documents to the applicant and resultantly the applicant could not file his reply to the charges leveled against him. Learned counsel submitted that enquiry was thereafter conducted as good as *ex parte* and

the punishment has been imposed upon the applicant without giving an opportunity of hearing to him. Learned counsel in the circumstances, prayed for setting aside the impugned order. Learned counsel further submitted that the charge against the applicant that he did not remain present for flag hosting on 1.5.2018 has been held to have been proved against the applicant though the applicant has produced the certificate evidencing that he had attended the flag hosting on the said date. Learned counsel submitted that it shows utter non-application of mind by the disciplinary authority. On the above grounds the applicant has sought quashment of the impugned order.

4. Shri I.S. Thorat, learned Presenting Officer appearing for the respondent authorities taking me through affidavit in reply filed on behalf of the respondents submitted that the Collector is the higher authority than the District Administrative Officer and overall supervision on the Municipal Council Administration is of the Collector of the concerned district. Learned Presenting Officer submitted that in such circumstances, the order passed by the Collector cannot be set aside on the ground that it has not been passed by the disciplinary authority. Learned P.O. further submitted that the applicant had remained absent without his leave being

sanctioned and though there were specific instructions that the aforesaid being the period of code of conduct no employee shall proceed on leave. Learned P.O. submitted that in such circumstances the applicant was not supposed to proceed on leave. The code of conduct was published on 23.4.2018 i.e. before the applicant proceeded on leave. Learned P.O. submitted that the applicant was directed to collect the necessary documents from the office, however, he failed in collecting such documents. It is further contended that the documents, which the applicant was seeking, there was no specific description of such documents and the said documents were not having material bearing on the charges framed against the applicant in respect of which the departmental enquiry was initiated. Learned P.O. submitted that after having considered the facts and circumstances the disciplinary authority has taken a lenient view and has imposed a minor punishment on the applicant thereby stopping his one increment for one year. Learned P.O. submitted that the application filed by the applicant is devoid of any substance and deserves to be dismissed and prayed for dismissal of the application.

5. I have duly considered the submissions advance on behalf of the applicant and the State authorities. It is the case of the

applicant that he had submitted leave application well in advance i.e. on 16.4.2018 seeking leave during the period from 2.5.2018 to 19.5.2018. Learned counsel submitted that in fact the authority concerned must have taken some decision and must have communicated to the applicant within a reasonable period, however, the applicant never came to be communicated as to what happened to his application dated 16.4.2018. Learned counsel has also contended that the notice dated 23.4.2018 was not served on the applicant or was not brought to his notice. As against, it is the contention of the respondents that the notice dated 23.4.2018 was attempted to be served on the applicant but he refused to accept and due panchanama in that regard was made at the relevant time.

6. First objection as has been raised by the applicant about the competence of the District Collector in passing the impugned order is concerned, I am not convinced with the arguments advanced on behalf of the applicant that it ought to have been passed by the District Administrative Officer. Admittedly the District Collector is supervisory authority for District Administrative Officer. Moreover, in the Circular dated 7.10.2018 it has been sufficiently clarified that general supervision will be of the District Collector over the Municipal

Administration. The order passed by the District Collector, therefore, cannot be faulted on the point as has been convinced on behalf of the applicant. Had it been passed by any officer inferior to the appointing authority of the applicant, it could have been said that it has not been passed by the Competent Authority. In the instant matter, the authority higher to the appointment authority has passed the impugned order. It cannot be, therefore, faulted with.

7. The second objection has been raised in regard to violation of the principles of natural justice. In sum and substance it is the contention of the applicant that though he demanded certain documents, which would have facilitated him to submit his reply, the same were not supplied to him. When I went through the documents filed on record, I did not find on record any application wherein particulars of documents which were allegedly demanded by the applicant from the respondents.

9. A query was made by me to the learned counsel for the applicant as to which documents were sought and which documents were not supplied to the applicant by the respondents. The learned counsel, however, could not answer the said query. Nothing is produced on record by the applicant to show which documents were demanded by him from the

respondents. In absence of such evidence on record it is difficult to record any finding that principles of natural justice were violated in the present matter. In the order passed by the Disciplinary Authority the chronology has been given as about the documents which are given to the applicant. Applicant has failed in proving his innocence in the Departmental Enquiry. In the O.A. also the applicant has not brought on record any material to cause interference in the findings recorded by the Enquiry Officer.

10. After having gone through the facts and circumstances on record it does not appear to me that the applicant has made out any case for causing interference in the order, so passed. In the result the OA deserves to be dismissed. Hence, the following order:-

ORDER

The Original Application stands dismissed. No order as to costs.

VICE CHAIRMAN

O.A.NO.989-2019 (SB)-2022-HDD-Minor punishment