MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.780/2016(S.B.)

Shri Naresh s/o Pandurang Parve,
Aged about 53 years, Occu.: Service,
R/o Plot No.37, Chandra Nagar, Nagpur.

Applicant.

Versus

1) The State of Maharashtra,
   Through its Secretary,
   Department of Home,
   Mantralaya, Mumbai-400032.
2) The Director General of Police,
   State of Maharashtra,
   Near Regal Talkies, Culaba, Mumbai.
3) The Additional Director General of Police (Administration),
   State of Maharashtra,
   Near Regal Talkies, Culaba, Mumbai.
4) The Superintendent of Police,
   Nagpur (Rural), Civil Lines, Nagpur.

Respondents

Shri A.P.Sadavarte, Ld. Counsel for the applicant.
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J).
Dated: - 02nd July, 2024.

JUDGMENT

Judgment is reserved on 24th June, 2024.

Judgment is pronounced on 02nd July, 2024.

Heard Shri A.P.Sadavarte, learned counsel for the applicant and Shri V.A.Kulkarni, learned P.O. for the respondents.

2. Facts leading to this O.A. are as follows. The applicant who was holding the post of P.S.I., and L.P.C. Chhaya Parteti were served with a charge sheet. Allegation in the charge sheet was that wife of the applicant came to know about illicit relations between the applicant and Chhaya Parteti. On 17.01.2009 Chhaya Parteti stopped wife of the applicant when she was proceeding to make further inquiries about such relations, and assaulted her. On the basis of report lodged by wife of the applicant Crime No.18/2009 was registered at Koradi Police Station under Sections 341, 294, 506(b) and 323 of I.P.C. against Chhaya Parteti. Departmental enquiry was conducted against the applicant and Chhaya Parteti. The Department examined 10 witnesses. They were subjected to cross examination by next friends of the applicant and Chhaya Parteti. The Enquiry Officer held the charges against the applicant and Chhaya Parteti to be proved and accordingly submitted enquiry report dated 26.10.2010 (Annexure A-1).

The Disciplinary Authority, respondent no.3 issued a show caused notice dated 18.10.2012 (Annexure A-3) to the applicant proposing punishment of withholding of one increment for three years. (Punishment of removal from service was imposed on Chhaya Parteti based on Judgment of Criminal Court). The applicant submitted his reply (Annexure A-4) to the show cause notice. The Disciplinary Authority imposed punishment of withholding of one increment for three years without affecting future increments by order dated 18.01.2013 (Annexure A-5). By order dated 20.09.2016 (Annexure A-6) the Appellate Authority maintained the order of Disciplinary Authority. Hence, this O.A. impugning orders dated 18.01.2013 and 20.09.2016.

3. Stand of respondents 2 and 3 is that while conducting departmental enquiry there was no procedural lapse, principles of natural justice were scrupulously followed, this was not a case of "no evidence" and hence, in exercise of clearly circumscribed powers of Judicial Review no interference would be warranted.

4. It is not the case of the applicant that there was any procedural lacuna or breach of principles of natural justice. In fact, record shows that there was full compliance of statutory provisions and principles of natural justice.

5. On behalf of the applicant attention was invited to some portions of cross examination of witnesses examined by the department to contend that such evidence could not be relied upon. In Judicial Review such reappraisal of evidence is not permissible. Tribunal can interfere with findings of facts recorded during the enquiry only if it is a case of "no evidence". Insufficiency of evidence or wrong appreciation of evidence cannot furnish a ground to upset findings of facts in exercise of powers of Judicial Review. In the facts and circumstances of the case the punishment imposed on the applicant cannot be said to be shockingly disproportionate to the nature of charge proved.

In ***B.C. Chaturvedi Vs. Union of India (1995) 6 SSC 749*** the Hon'ble Supreme Court has held-

> ***"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of the Evidence Act nor of proof of***

fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has co-extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In Union of India v. H.C. Goel, (1964) 4 SCR 718: AIR 1964 SC 364, this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."

Said ruling has been consistently followed by the Hon'ble Supreme Court and High Courts. In view of aforediscussed factual and legal position, the O.A. is liable to be, and the same is hereby, dismissed with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 02/07/2024
rsm.

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

Name of Steno	:	Raksha Shashikant Mankawde
Court Name	:	Court of Hon’ble Member (J).
Judgment signed on	:	02/07/2024.
and pronounced on		
Uploaded on	:	03/07/2024.