

Chitra Sonawane.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 19455 OF 2024

State Of Maharashtra Through The Chief
Secretary Govt Of Maharashtra Mantralaya
Mumbai And Ors

...Petitioners.

Versus

Sant Prasad Singh

...Respondent.

Smt.RA Salunkhe, AGP for the Petitioner/State.
Ms. Swapna Pramod Kode for Respondent.

CORAM: SUMAN SHYAM &
ADVAIT M. SETHNA, JJ.

DATED: 25th AUGUST 2026.

PC:-

1. Heard Smt.R.A.Salunkhe, learned AGP for the Petitioner-State and Ms Swapna Kode, learned Counsel for the sole Respondent.
2. This Writ Petition is preferred by the State of Maharashtra against the Judgment and Order dated 21st March 2024, passed by the learned Maharashtra Administrative Tribunal, Mumbai, ("***Tribunal***" for short) in Original Application No.877 of 2017 partly allowing the Original Application filed by the sole Respondent.
3. Facts of the case, as apparent from the material on record, in a nutshell, are as hereunder :

4. In the year 2011, the sole Respondent was subjected to a departmental enquiry while he was serving as an Assistant Manager in the office of Petitioner No.3 - Resident Commissioner, Maharashtra Sadan, New Delhi. He was working under the supervision of the Resident Commissioner. In the departmental enquiry, as many as 5 Charges were brought against the Respondent. On conclusion of the enquiry, by the Order dated 19th January 2013, major penalty of dismissal from service was imposed upon the Respondent. Aggrieved thereby, the Respondent, as Original Applicant, had instituted Original Application No.877 of 2017, assailing the Order dated 19th January 2013, by means of which he was dismissed from service.

5. In the Original Application, the Applicant-Respondent, apart from challenging the Order dated 19th January 2013, had also prayed for other consequential reliefs including issuance of direction for promotion to the higher post, which prayers were however, not considered by the learned Tribunal. As a matter of fact, the learned Tribunal had only granted prayer No.1 under Clause 9(i) of the Original Application, whereby, challenge was made to the Order of dismissal from service dated 19th January 2013. Since the Respondent has not filed any petition challenging the Judgment and Order dated 21st March 2024 to the extent his prayers under prayer Clauses 9(ii) to 9(vii) were declined by the learned Tribunal, hence, it would not be necessary for this Court to go into the said aspect of the matter. Suffice it to note herein that the only question that would arise for consideration in the present Petition is as to whether, the learned Tribunal was justified in

interfering with the Order of dismissal from the service dated 19th January 2013 on the grounds and reasons indicated in the impugned Order.

6. From the material on record, we find that in the Departmental Enquiry, the following 5 Charges were framed against the Respondent.

(i) Violation of roster point in direct recruitment and depriving the reserved candidates of their rights.

(ii) Issued Permanent Certificate to ineligible employees.

(iii) Violation of roster point in promotion to deprive the reserved category candidates of their right.

(iv) Dereliction in service rules resulting loss of employees.

(v) Not accepting the assigned responsibility and not obeying the Government orders intentionally.

7. After examining the material on record, the Tribunal was of the view that the charges were vague, the evidence was insufficient to establish the charges and the punishment was disproportionate. As a matter of fact, it was observed in the impugned Judgment and Order itself that the main allegation brought against the Respondent was for alleged violation of the Roster point, thus depriving the reserved category candidates of their rights. However, the learned Tribunal has also recorded a finding that said

Roster did not even receive the approval of the GAD department on the date on which the alleged violation had taken place.

8. After taking note of the averments made in paragraph No. 2 of the Affidavit dated 5th March 2024 filed by the Assistant Resident Commissioner (Administration), Maharashtra Sadan, New Delhi, the learned Tribunal, has held that the main charge of violating the roster is not proved. It was further observed that the Affidavit of the Assistant Commissioner clearly shows that the approval of the GAD for the roster was received only on 3rd May 2013, whereas the charges in regard to breach of roster relates to an earlier period. The Tribunal, had accordingly, arrived at the finding that the charges, on the basis of which the order of dismissal from service dated 19th January 2013 was issued, had not been substantiated. Therefore, the order dated 19th January 2013, was set aside. Aggrieved by the Judgment and Order passed by the learned Tribunal, the State has preferred this Writ Petition.

9. Smt. R.A.Salunkhe, the learned AGP for the Petitioner-State, submits that it is not a case of a single charge but a number of charges were brought against the Respondent. Therefore, the learned Tribunal has erred in holding that the charges have not been proved merely on account of the fact that one of the charges was found to be not proved. The said submission of the Petitioner's Counsel has, however, been stoutly denied by the learned Counsel for the Respondent, who submits that her client has been subjected to undue harassment, mental agony and trauma by subjecting him to the Departmental Enquiry. According to her, the Order dated

19th January 2013 is illegal, arbitrary, and hence, unsustainable in law. The learned Counsel further submits that her client has retired from service on 31st January 2013 (wrongly mentioned as 31st March 2013, in the impugned Judgment and Order of the Tribunal) but he has not been paid his pension or retirement dues till date. She submits that the Writ Petition be dismissed.

10. We have considered the submissions made at the Bar and have also perused the material on record.

11. At the very outset, we deem it appropriate to note herein that although there were as many as 5 charges brought against the Respondent, as noted above, yet, none of these charges, in our considered opinion, made out proper imputation of misconduct against the Respondent. If those charges are viewed individually, even then, in our view, those are completely vague, bereft of material particulars and hence, not capable of being properly responded to by the Respondent. As such, we are of the opinion that on such count alone, the departmental enquiry stood vitiated due to failure on the part of the Disciplinary Authority to frame proper and definite charges in the Departmental Enquiry.

12. It is settled law that a departmental enquiry, based on vague charges, which do not provide a proper opportunity to the delinquent to defend his interest, would be unsustainable in law. Therefore, any order of penalty imposed on the basis of such disciplinary enquiry would also be unsustainable in law.

13. The Supreme Court in *State of Andhra Pradesh & Ors. Vs.*

*S.Sree Rama Rao*¹ has taken the view that where a delinquent is served with chargesheet without specific and definite charge, the enquiry stands vitiated as having been conducted in violation of principles of natural justice. In *Sawai Singh Vs State of Rajasthan*², the Supreme Court has held that the charges must be clear, definite and specific as otherwise it would be difficult for any delinquent to meet the vague charges.

14. In *Union of India & Ors. Vs. Gyan Chand Chattar*³ the Supreme Court has summarised the law on this issue and held that charges should be specific and definite, giving details of the incident which formed the basis of the charges. No enquiry can be sustained on vague charges. It was observed that the Enquiry Proceeding must be conducted fairly, objectively and not subjectively. The authority must record reasons for arriving at the finding of fact in context of the statute defining the misconduct.

15. Having regard to the facts and circumstances of the case, we are of the view that the charges brought against the Respondent are totally vague and hence, the Departmental Enquiry based on such vague charges itself was unsustainable in law. Therefore, no order of penalty could have been passed against the Respondent based on such Departmental Enquiry.

16. Apart from the above, we also deem it appropriate to observe herein that even if the basic allegation brought against

1 MANU/SC/0222/1963

2 MANU/SC/0340/1986

3 MANU/SC/0897/2009

Respondent is accepted on its face, even then, it is difficult to assume that the Respondent would manipulate the record to such an extent so as to single handedly alter the Roster. The learned Tribunal has also taken note of the said fact before recording the finding that the charge has not been proved. We are in complete agreement with the view expressed by the learned Tribunal on the above point.

17. Another issue which deserves consideration is the proportionality of the punishment. In the given facts, even if the charges brought against the Respondent are held to be proved, even then, the penalty of dismissal from service, that too on the eve of the Petitioner's retirement from service, appears to be shockingly disproportionate to the gravity of the charge. Be that, as it may, since the Respondent has already retired from service and the issue raised in the Writ Petition is confined only to the question of validity of the judgment and order dated 21st March 2024, passed by the Tribunal, we refrain from delving any further into that aspect of the matter.

18. For the reasons stated hereinabove, we do not find any cogent ground to interfere with the impugned Judgment and Order passed by the Tribunal. Therefore, the Writ Petition is dismissed.

19. We, however, make it clear that in view of this Order, the Petitioners shall release the Pension as well as the retirement dues of the Respondent within six weeks from the date of receipt of copy of this order, failing which the amount would carry interest @ 9% per annum from the date of the said amount becoming due

and payable, until realization.

20. Writ Petition stands disposed of.

21. All concerned to act on authenticated copy of this order.

(ADVAIT M. SETHNA, J.)

(SUMAN SHYAM, J.)