

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 366 OF 2004
WITH
CIVIL APPLICATION NOS. 6003 OF 2004 AND 2048 OF 2009

Bhausahab s/o Macchindra Wardule
Age 33 years, Occ. Service
R/o. Daregaon, at present Laxminath
Nagar, Indewadi, Ambad Road,
Jalna, Tq. and District Jalna

...Petitioner

versus

1. The Additional Commissioner,
Aurangabad Division Aurangabad
(Copy to be served to the
Government Pleader High Court
of Bombay, Bench at Aurangabad)

2. The Chief Executive Officer
Zilla Parishad, Jalna

...Respondents

.....
Mr. D.R. Irale-Patil, Advocate for the petitioner
Mr. S.D. Kaldade, AGP for respondent No.1
Mr. S.S. Tope, Advocate for respondent No.2
.....

**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATED : 2nd SEPTEMBER, 2015

ORAL JUDGMENT (PER A.V. NIRGUDE, J.):

1. The only question that is required to be decided in this petition is whether the punishment awarded to the petitioner after departmental enquiry was disproportionate to the charges proved.

2. The petitioner is an employee of Zilla Parishad, Jalna. In 2001, he

was working as a Gram Sevak. Certain allegations were made against the petitioner and he was put under suspension. Departmental enquiry was initiated on 26.7.2001. There were seven charges framed against the petitioner. Out of them, charge Nos. 1 and 2 were not proved, charge nos. 3, 4 and 6 were partly proved and charge Nos. 5 and 7 were proved. On 23.1.2003, on the basis of the enquiry report, respondent no.2 after hearing the petitioner, awarded punishment to the petitioner withholding two annual grade increments permanently and directed to treat the suspension period as suspension for all the purposes.

3. The petitioner then approached the appellate authority viz. the Additional Commissioner, who upon hearing the submissions on appeal, partly allowed the appeal. The said authority set aside the impugned order directing the respondent No. 2 that the suspension to be treated as suspension, however, he did not disturb the stoppage of two annual grade increments permanently. The question that comes before us is whether the punishment is disproportionate to the charges proved. We find that out of 7 charges only two charges were proved. No allegations of misappropriation of funds were made and proved. The charges do not involve moral turpitude. The misconduct did not incur monetary loss to the employer. As against this, due to permanent stoppage of 2 annual grade increments, petitioner would suffer during his entire career and even at the time of his retirement and for pensionary benefits.

The loss that the petitioner would suffer due to this punishment, appears to us, disproportionate to the nature of charges which were proved.

4. In view of the above, instead of stopping two annual grade increments permanently, we are inclined to stop the said increments up to certain time i.e. up to today when the matter is decided finally. We therefore, allow to modify the quantum of punishment by reducing it. The petition is partly allowed in terms of the following order:-

ORDER

- I. The petitioner's two annual grade increments shall remain stopped till today.
 - II. Hereinafter, two annual grade increments stopped, stand revived from 3.9.2015. It is made clear that the petitioner is not entitled to any arrears.
 - III. From today, the effect of the impugned order come to an end.
 - IV. Writ petition is accordingly disposed of. Rule is made absolute in the above terms.
5. In view of disposal of Writ Petition, the Civil Applications do not survive and the same stand disposed of.

(V. K. JADHAV, J.)

(A. V. NIRGUDE, J.)