

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 459 OF 2004

Chandrakant Makhan Badgujar,
Age 46 years, Occ. Service,
R/o. F.D.C.M. Colony, Taloda
District Nandurbar

...Petitioner

versus

1. The State of Maharashtra,
2. The Divisional manager
Dhule Forest project Division,
Nandurbar
3. Regional Manager,
F.D.C.M. Nasik, Region Nashik
4. Managing Director,
F.D.C.M. Nagpur

...Respondents

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Mr. S.B. Talekar, advocate for the petitioner
Mr. D.B. Bhange, A.G.P. for respondent N.1
Mr. Pradeep Shahane, advocate for respondent No.2
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**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATED : 2nd SEPTEMBER, 2015

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

1. This petition challenges the outcome of departmental enquiry initiated against the petitioner whereby the petitioner was directed to pay 50% of the amount of loss caused on account of missing firewood. The respondent Nos. 2, 3 and 4 are officers of F. D. C. M., which is a Government Undertaking Corporation. The

petitioner was served with a charge sheet on 13.2.1998. After due enquiry, the petitioner was found guilty of the charges. It was directed that he should deposit the cost of missing firewood. In addition to it, he was warned and entry to that effect was ordered to be taken in his service book. The appeal filed by the petitioner before the enquiry committee succeeded partly. The amount sought to be recovered was reduced. As against this, the petitioner has approached this Court challenging the outcome of the enquiry. The petition is pending since 2004. In the meantime, the petitioner stood retired from service.

2. At interim stage, the execution of punishment was not stayed and such recovery is made subject to outcome of the petition.

3. By this time, the amount ordered to be recovered must have been recovered from the petitioner. The learned counsel for the petitioner, in his submission, has raised two grounds. Firstly, the action taken against the petitioner by the Corporation is belated. The incident took place in the year 1995. One Forest Officer by name Mr. P.K. Teli was subjected to departmental enquiry. He was held guilty for the charges framed against him and was punished appropriately. Thereafter, after a period of three years, the Corporation served charge sheet against the petitioner. By that time, all relevant circumstances, which could have favoured the petitioner, got destroyed. Thus, according to the learned counsel, there was serious prejudice caused to the petitioner. We are

not convinced on this point. Earlier charge sheet and the subsequent charge sheet were two different proceedings though arising from one incident. The second charge sheet filed subsequently against another delinquent on different charges could not have been said to be an illegality. The department could lead evidence and prove the misconduct on the part of the petitioner. Secondly, the learned counsel for the petitioner pointed out that the petitioner, during the course of enquiry, made a written request to the Enquiry Officer to supply him certain documents which, according to him, were required for the purpose of his defence. The said request was made as per the provisions of Rules applicable to the Enquiry but the said request was turned down. According to the petitioner, this has caused serious prejudice to the petitioner. On perusal of the impugned order, we find that the production of documents would not have changed the course of enquiry. The petitioner could not prove his case and could not defend himself. We otherwise do not see any reason to interfere in the impugned order. The writ petition fails and it is accordingly dismissed. Rule discharged. No costs.

(V. K. JADHAV, J.)

(A. V. NIRGUDE, J.)

rlj/