

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7559 OF 2004

Sudhakar s/o Jeevanrao Kulkarni
Age 61 years, Occu-Pensioner
R/o 52-A, New Shanti Niketan Colony,
Aurangabad

.. PETITIONER

Versus

- 1] The State of Maharashtra
(Copy to be served on G.P.
High Court of Judicature of Bombay
Bench at Aurangabad)
- 2] The Dean
Medical College and Hospital
Aurangabad.
- 3] The Director,
Medical Education & Research,
Mumbai-1.
- 4] Professor
Radiotherapy Department,
Govt. Medical College & Hospital
Aurangabad

.. RESPONDENTS

....
Mr.P.A.Kulkarni,Adv. For petitioner
Mrs.S.A.Dhumal,AGP for respondent State.
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**CORAM : S. V. GANGAPURWALA &
V. L.ACHLIYA, JJ.
DATED : 27th FERUARY, 2015**

ORAL JUDGMENT [PER S.V.GANGAPURWALA,J.] :-

The learned counsel for the petitioner states that the petitioner had given in writing that too under protest that the amount of Rs.26,239/- may be withheld. The Tribunal dismissed his Original Application. According to the learned counsel, that was not an admission of guilt. It was only for the reason that the petitioner could not get monetary benefits. The letter in writing was given that too the same was under protest. In the enquiry, it was found that alongwith petitioner one more employee viz. Dr.Rao was held responsible but the total amount is directed to be recovered from petitioner. According to the petitioner, the Tribunal has not considered the said aspect.

2] We have heard learned AGP, who submits that as the petitioner has given in writing to withhold the amount, and in enquiry he is found guilty, the Tribunal has rightly passed the order.

3] We have considered the submissions canvassed by learned counsel for respective parties. The reasoning given by the Tribunal is not in consonance with the facts on record. Though the petitioner had given in writing that the amount of Rs.26,239/- may be withheld, however, in the said application petitioner had mentioned that he is giving it under protest. That could not have been a sole ground for dismissing the Original Application. Both persons were held liable for the loss of the said amount. Petitioner was one of them. ofcourse it is

a case of minor punishment, as such long drawn enquiry is not necessary. Show cause notice was issued and explanation was also called that would be sufficient compliance.

4] Considering above, we pass following order :

a] Respondents shall pay 50% of the total amount i.e. 13,120/- to the petitioner out of the amount withheld by it. The same would be towards full and final settlement of the petitioner's claim. Said amount be paid within three months.

5] Writ Petition is partly allowed. Rule accordingly made absolute in above terms.

V.L.ACHLIYA, J.

S. V. GANGAPURWALA, J.

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