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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8626 OF 2012

PRAMILA SHIVSHANAR VIBHUTE
VERSUS
THE CHIEF EXECUTIVE OFFICER, ZP, LATUR AND ORS

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Advocate for Petitioner : Mr.Venjane Tukaram M.

Advocate for Respondents : Mr.Manale Satish S. for R/1 & R/2.

AGP for Respondent No.3 : Mr.D.R.Korde.

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**CORAM: RAVINDRA V. GHUGE, J.
DATE :- 16th June, 2015**

PC.:

1 Rule.

2 Rule made returnable forthwith and heard finally by the consent of the parties.

3 The issue that has been raised by the Petitioner is only to the extent of whether, the punishment commensurate to the seriousness and gravity of the misconduct alleged to have been committed, has been awarded to the Petitioner.

4 The Petitioner was working as a Supervisor of Anganwadis at Aurad Shahajani, Taluka Nilanga, District Latur. The food/meals in the Anganwadis was distributed through Bachat Gats. The Petitioner was handling about 09 villages including Aurad Shahajani. There are more than 25 Anganwadis and about 25 Bachat Gats at Aurad Shahajani. There are about 08 Anganwadis and 17 Bachat Gats outside Aurad Shahajani.

5 It is stated that the duty of the Petitioner was to prepare the bills of the Bachat Gats for Anganwadis and to submit them to the Respondent No.2 Child Development Project Officer (for short CDPO). After the CDPO verified the correctness of the bills, the cheques were issued to the concerned Anganwadis and Bachat Gats.

6 The Petitioner was charge-sheeted for having misappropriated an amount of Rs.93,566/- of the Bachat Gats on 24.12.2008. A departmental proceeding was conducted. The Petitioner, vide her reply dated 07.11.2008, submitted that she has been honestly working for several years. She is not involved in any scam and she cannot be held responsible for misappropriation of Rs.93,566/-. She, however, has admitted her signatures on several bills, which have been passed and on account of payments issued on the basis of such bills, an amount of Rs.93,566/- has been proved to be misappropriated.

7 Pursuant to the Enquiry Officer's report dated 14.12.2009, delivered by the Assistant Commissioner (Enquiries), Aurangabad, the Petitioner was held guilty of the charges levelled upon her. Eventually, by an order of punishment dated 30.07.2010, she was awarded the punishment of compulsory retirement and the amount of Rs.93,566/- was ordered to be recovered from her by the Disciplinary Authority/ Chief Executive Officer, Zilla Parishad, Latur.

8 The Petitioner preferred Appeal No.36/2010 before the Divisional Commissioner, Aurangabad. By the impugned judgment and order dated 21.03.2011, the appeal of the Petitioner was partly allowed. Her punishment of compulsory retirement was held to be disproportionate to the seriousness and the gravity of the misconduct proved against her. She was, therefore, directed to be reinstated and payment of basic pay only till she retired.

9 The grievance of the Petitioner is that the said punishment is disproportionate to the misconduct proved against her. It is further submitted that the Petitioner can only be held guilty of negligence as is concluded by the Appellate Authority. The superior officers, who according to the prevailing procedure were required to verify the bills put up by the

Petitioner, have failed in their duties in properly verifying the bills and therefore, the Appellate Authority has held that the Petitioner alone cannot be faulted for the misappropriation of Rs.93,566/-. It is on the basis of the conclusion of the Appellate Authority that the Petitioner has put forth a limited grievance.

10 It is clarified by Mr.Venjane, learned Advocate for the Petitioner, on instructions that though the Petitioner has prayed for reinstatement with full back-wages and quashing of the impugned order of the Chief Executive Officer dated 30.07.2010, the Petitioner is willing to accept the punishment of stoppage of one or two increments permanently. He further submits that the punishment as modified by the Appellate Authority in the impugned judgment dated 21.03.2011 is disproportionate.

11 Mr.Manale, learned Advocate for the Respondent Nos.1 and 2, has vehemently opposed the petition. He submits that the Respondents had challenged the impugned judgment dated 21.03.2011 before the State Government in revision proceedings and the said revision petition has been dismissed without causing interference in the impugned judgment.

12 Mr.Manale relies upon the judgment of the Apex Court in the

matter of *The Divisional Controller, KSRTC v/s M.G.Vittal Rao* reported at **2012 (1) SCC 442**, to canvass the point that the involvement in acts of misappropriation cannot be looked at leniently or sympathetically. No relief can be granted to the Petitioner since the charge of forgery in signatures and preparation of false bills, has been admitted by the Petitioner and the same has been proved. The Employer has, therefore, lost confidence and the punishment awarded to the Petitioner by the Appellate Authority is commensurate to the gravity and seriousness of the misconduct.

13 In fact, Mr.Manale ventures to state that the punishment of dismissal from service was the only punishment available in such cases, but for the decision of the State Government in the revision petition and the fact that the Respondents have not challenged the judgment of the State Government before this Court.

14 I have considered the submissions of the Petitioner and have gone through the petition paper book with the assistance of the learned Advocates appearing for the respective sides.

15 The Appellate Authority has taken into account the admission of the Petitioner in the departmental enquiry and has also considered the

record while concluding that the charge of forgery in signatures has been proved against the Petitioner. The Appellate Authority has, however, interfered with the punishment of compulsory retirement since the Petitioner alone could not be held responsible for the misappropriation of Rs.93,566/- and other employees involved in the procedure of verifying the bills put up by the Petitioner, have been treated differently.

16 In my view, an act of forgery, which has resulted in or has contributed to the misappropriation of any amount, be it a small amount or a large amount, in itself amounts to a grave and serious misconduct. The Petitioner has been given the benefit by the Appellate Authority since she has been singled out for the punishment of compulsory retirement.

17 In my view, the punishment of reducing the monthly salary of the Petitioner to her basic scale by the Appellate Authority, cannot be termed as being a disproportionate punishment. It is under such circumstances that the Petitioner finds herself reinstated in employment.

18 Had the Employer treated all the persons involved in the said misconduct equally, the Petitioner would not have got the benefit which has been extended to her by the Appellate Authority vide the impugned order dated 21.03.2011.

19 In the light of the above, I do not find any ground for interfering with the findings of the Appellate Authority. The Writ Petition is devoid of any merit and is, therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)