

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT PANAJI, GOA
WRIT PETITION NO.523 OF 2004

Dr.Ulhas S. Parab,
resident of H.No.A-1,
Golden Hill View, Rego Bagh,
Alto St.Cruz, Bambolim,
Goa-403 202,

Petitioner

Versus

1 The Visitor of Goa University,
(Appellate Authority),
Rajbhavan, Dona,
Paula-Goa.

2 The Goa University,
through its Registrar, having
office at Taleigao Plateau,
Bambolim-Goa.

3 The Vice Chancellor,
Goa University, having office
at Taleigao Plateau,
Bambolim-Goa.

4 The Chairman of the
Executive Council,
Goa University, with his
office at Taleigao Plateau,
Bambolim-Goa.

Respondents

Corrected
as per order dt.
31/05/15 in MCA
No 476/15.

Mr. Y.V. Nadkarni,

Mr.P. Arolkar advocate for the petitioner

Mr.Amogh Prabhudessai, AGA for Respondents.

**CORAM : R.M.BORDE &
F.M.REIS, JJ.**

Reserved on : 22nd December, 2014

Pronounced on : 01st April, 2015.

JUDGMENT (Per R.M.Borde, J.):

1 The petitioner is praying for issuance of writ of certiorari or any other writ, direction or order in the nature of writ of certiorari for quashing the order dated 08.01.2004 issued by the Chancellor and appellate authority of the Goa University, confirming the order passed by the Goa University by adopting Resolution dated 21.03.2003 thereby awarding penalty of compulsory retirement from service to the petitioner with effect from 29.03.2003.

2 The petitioner was holding the post of Deputy Registrar in Examination Division at Goa University since 31.08.1990. He took over as Controller of Examinations of Goa University on 16.07.1991. There was an incidence concerning alleged *mal practice* at the examination of M.A. Sociology held in April 1995 in case of one student by name Rajesh Dessai. It is alleged that three answer books concerning papers SC-4, (Philosophical Science Method) SC-6, (Social Stratification) and SC-7 (System and Theory of Kinship) of the Masters of Arts, Sociology examination held in April 1995 in case of one Rajesh P. Dessai, a student who had appeared for the said examination, were substituted. The said answer books, duly assessed by the examiners appointed by the Goa University, were allegedly substituted by fabricating and forging the signatures of the Examiners and Investigators by new set of answer books having highly inflated marks against such lower marks which have really been obtained by said Shri Rajesh P. Desai. At the relevant time, petitioner was holding additional charge of the post of Registrar, Goa University during the period from 26.07.1995 to 29.08.1995. During the relevant period, the charged officer no.1

Shri S.R.Phal was Reader in Sociology Department of Goa University and he was appointed as Chairman of Board of Examiners in respect of final examinations held in April 1995.

3 The Charged Officer No.2 is the petitioner – U.S.Parab. He was working as Controller of examinations and heading the Examination Division of the University. On the crucial date i.e. on 29.07.1995 and onwards, he was acting as Registrar of the University since the regular incumbent had gone on leave.

4 The Charged Officer No.3 Shri V.S.Kamat was working as Assistant Registrar and was holding Section-I of the said Examination Division. One Shri Golatkar was the Superintendent working under Shri Kamat and Shri G.V.Keni was the Lower Division Clerk working under Shri Golatkar. Shri Keni was the dealing hand in relation to the suit papers of M.A. Part-II examination. The answer books of papers SC-7 and SC-4 were corrected by External Examiners Dr. (Mrs.) Kamla Ganesh and Dr. (Mrs.) Nasreen Fazalbhoy, respectively, both of Bombay University, while the paper SC-6 was corrected by internal examiner Shri Alito Sequeira, who, at the relevant time, was Lecturer in Sociology Department of Goa University.

5 It is the case put up by the Disciplinary Authority that the answer books of student Shri Rajesh P. Dessai, had been fraudulently replaced by other false answer books, written by the said student Rajesh P. Dessai, in order to enable him to secure much higher marks than those awarded to him by the examiners who had corrected the original answer books. It is alleged that all

the three Charged Officers entered into conspiracy, in order to abet directly or indirectly and help said Shri Rajesh Dessai in replacing the original answer books by the new ones on which signatures of supervisors and examiners had been forged and for the said purpose, both Dr.Parab and Shri Kamat made available to said Rajesh Dessai blank answer books and supplements, which were in their control. Shri G.V.Keni, Lower Division Clerk, detected the discrepancy between the marks and brought it to the notice of his superior Shri Golatkar and thereafter the matter was put up before Shri Kamat. It is alleged that Shri Kamat, instead of taking action by alerting his superiors, simply instructed them to enter in the register the marks shown in the marks list. It is thereafter on 27.07.1995, inflated marks awarded in the false answer books were entered by Charged Officer No.1 Shri Phal in the marks list and then, on his instructions, in the Result Register. The register was signed by all the 3 charged officers and the result was ordered to be declared. However, on the next day, before the results were announced, Shri Sequeira raised objection and stalled announcement of the result. It is alleged that Dr.Parab and Shri Kamat had also failed in their duty to keep the assessed and blank answer books in safe custody to prevent from being misused or tampered with. As such, departmental inquiry was proceeded against the charged officers by framing Articles of Charges against them.

6 So far as petitioner is concerned, Article of Charges framed, are as below:

(a) That while functioning as Controller of Examinations during the period from

01/06/1995 to 31/07/1995 and also as officiating Registrar from 26/07/1995, petitioner entered into a conspiracy with others and the student Shri Rajesh Dessai to give the student undue advantage at the M.A. (Sociology) examination of April 1995 by unfair means. The conspiracy was alleged to have been entered into between Shri S.R.Phal, Reader and Chairman of the Board of Examiners, Shri V.J.Kamat, the then Assistant Registrar, (Exams)-I, Officials of Examination Section, some unknown persons and student;

(b) That the petitioner participated in the act of making available blank answer books and supplements which were under the control of petitioner to the said student and further the petitioner aided or abetted directly or indirectly by acts of omission and commission in substitution of three answer books by fabricated and forged answer books having highly inflated marks;

(c) That the petitioner fraudulently allowed the entry of inflated marks already entered by Shri Phal in the marks list in the result register of the said examination;

(d) That the petitioner in undue haste and without following procedure finalized the result of the examination;

(e) That the petitioner failed in his duty to keep the assessed and blank answer books in safe custody to prevent from being misused and tampered with.

7 On 30.07.1996, Dr.Alvaro De Noronha Ferreira, a retired District & Sessions Judge, was appointed as Inquiry Officer by the Executive Council of Goa University to inquire into the charges levelled against the petitioner, Shri Phal and Shri Kamat.

The Inquiry Officer submitted his report to the Disciplinary Authority on 31.01.1997. The Inquiry Officer exonerated the petitioner of all the charges levelled against him except concluding that the petitioner failed in his duty to keep the assessed and blank answer books in safe custody to prevent from being misused or tampered with. On consideration of the report, final order of compulsory retirement came to be passed against the petitioner by the disciplinary authority on 01.04.1997.

8 The petitioner presented an appeal to the Visitor of Goa University, but the appeal came to be dismissed. The petitioner thereafter presented a Writ Petition bearing W.P. No.318 of 1998 before the Division Bench of this Court challenging the order passed by the Visitor of Goa University as well as the order passed by the Disciplinary Authority. The Division Bench of this Court disposed of writ petition filed by the petitioner being W.P.No.318/1998 along with the petition presented by Shri Kamat (W.P.No.28 of 1999) on 28.02.2001. The order passed by the disciplinary authority directing compulsory retirement of the petitioner has been set aside by the Division Bench of this Court and the matter was remanded back to the disciplinary authority with a direction to call upon the petitioner to submit his representation within fifteen days and the disciplinary authority was directed to consider the representation and thereafter follow the procedure as laid down under sub-rules (2) to (4) of Rule 15 of the Central Civil Services Rules and shall take appropriate decision within six months from the date of communication of the order. It was further directed that till final decision is taken by the disciplinary authority, the petitioner shall be treated to be under

suspension.

9 The copy of the report of Inquiry Officer was forwarded to the petitioner and he was called upon to make a written representation to the disciplinary authority in his defence, on 22.03.2001. The petitioner had submitted his representation to the disciplinary authority on 07.04.2001. The Executive Council of the University, in its meeting held on 16.06.2001, decided to constitute a Committee comprising of Professor Shri A.V.Afonso, Dr.A.K.Helblekar and Shri Jalaj Srivastava to study the matter and advice the Council with regard to the representation of the charged officers. The Committee submitted its report to the Executive Council *inter alia* unanimously recommending that charges should be framed against Shri Keni, Lower Division Clerk in the Examination Section and Shri Golatkar, Superintendent in the Examination Section and inquiry proceedings should be started as the depositions of various individuals, material evidence and their own contradictory statements point out to their involvement in the examination fraud and they *prima facie* appear to be the crucial link between the student Rajesh Dessai and the Examination Section. It is also observed in the report that their involvement in the replacement/substitution of answer books appears to be definite, particularly in view of the fact that both, the Inquiry Officer and University Authorities had exonerated the earlier charged officers of the said charge. Mr Keni is the final recipient of the answer books and *de facto* custodian of the same.

10 On 20.08.2001, in the meeting of Executive Council, an opinion was expressed to disagree with the report and draft of

tentative finding of disagreement was adopted. It was proposed that the petitioner should also be held guilty of the charges framed against him under the Articles of Charges. The Executive Council resolved that the charges be framed against Shri Keni, former Lower Division Clerk and Shri Golatkar, former Superintendent in the Examination Section and fresh charges be framed against all the earlier charged officers including the petitioner. That Shri Keni should be placed under suspension with immediate effect to keep his case at par with other charged officers and that in view of complexity of case, services of AAG, Goa may be requested for legal assistance.

11 In the meeting dated 29.07.2002, on consideration of the report, it was decided not to proceed against Shri Keni and Shri Golatkar, who are star witnesses of the University in the inquiry against charged officers. The Executive Council, after discussing the matter, resolved on 29.07.2002, to deal with the matter in accordance with the judgment dated 28.02.2001, passed by Division Bench of this Court in Writ Petition No.318 of 1998 with W.P. No.28/1999. The Executive Council further resolved to issue charge sheet to Shri G.V.Keni and to proceed against him as per the Rules. It is on 08.01.2003, that the Registrar of Goa University informed the petitioner that his representation dated 07.04.2001 has been rejected by the Executive Council and it was resolved to propose tentative findings of disagreement on Articles of Charge No.I, III, IV and to accept Inquiry Officer's findings on Articles of Charge No.II & V and petitioner was called upon to submit his representation within fifteen days. The petitioner presented his representation against the tentative findings on

05.03.2003, relying upon the findings of Three-member Committee appointed by the Executive Council, which highlighted involvement of Shri Keni and Shri Golatkar. The Executive Council, however, resolved to reject the representation of the petitioner and imposed punishment of compulsory retirement with effect from 21.03.2003. The final order rejecting petitioner's representation and imposing punishment of compulsory retirement was issued on 21.03.2003. The petitioner thereafter moved the appellate authority i.e. Chancellor of the Goa University impeaching the decision of the University imposing penalty. However, appeal presented by the petitioner came to be dismissed by the Chancellor of Goa University on 08.01.2004.

12 The disciplinary authority, expressing disagreement with the findings recorded by the Inquiry Officer, proposed tentative reasons/findings of disagreement on Articles No.I, III and IV as against the petitioner and he was directed to file his reply and make appropriate representation to answer the tentative findings of disagreement. On consideration of the reply tendered by the petitioner, the disciplinary authority proceeded to hold, so far as Article of Charge No.I is concerned, that there was a conspiracy between the petitioner, Professor Phal – Charged Officer No.1 and Shri Kamat, Charged Officer No.3 to give the student Rajesh Dessai an undue advantage at M.A. Part-I and II examinations by unfair means. So far as Charge No.III is concerned, it was held that the petitioner, in connivance with other charged officers, fraudulently allowed entry of inflated marks already entered by Shri Phal in the marks sheet in respect of concerned papers in the Result Register of examination against the

name of student Rajesh P. Dessai despite having knowledge about the major discrepancies. So far as Article of Charge No.IV is concerned, it was held that Charged Officer No.2 i.e. petitioner, in connivance with Shri Kamat and Shri Phal and in undue haste, without complying with the provisions of Ordinance No.21.47, finalised M.A. Part I & II examination result in order to give undue benefit at the examination to the student Rajesh Dessai. So far as findings of Inquiry Officer on Article of Charges No.II and V are concerned, those are accepted by the disciplinary authority. The petitioner, as such, has been awarded penalty of compulsory retirement from service.

13 So far as Article of Charge No.I is concerned, it relates to the conspiracy hatched by all the Charged Officers and some unknown persons and the student Shri Rajesh Dessai, to give the said student undue advantage at the examination by unfair means. If the answer to Charge No.I is in affirmative, findings on Article of Charges No.III and IV will remain unaffected. Whereas, if it is found that the conspiracy is not borne out from the material collected and the findings of Inquiry Officer, Articles of Charge No.III and IV cannot be said to have been proved. At this stage, it is worthwhile to note that so far as charge framed against all the charged officers in respect of substitution of answer sheets is concerned, the Inquiry Officer has recorded a finding that the said charge has not been established and the finding has been accepted by the disciplinary authority also. Thus, it has to be concluded that there is no involvement of the petitioner in aiding or abetting directly or indirectly by various acts of omission and commission in substitution of three answer books of the examination of April-

1995 which were duly assessed by the examiners appointed by the University pertaining to the student Rajesh Dessai. Since Article of Charge No.II has not been proved, there is nothing to infer that the petitioner has any role in respect of substitution of answer books; or that his involvement, directly or indirectly in the forgery or fabrication of false answer books, has not been established. The finding recorded by the Inquiry Officer, which has been accepted even by the disciplinary authority on Article of Charge No.II, assumes importance while considering Article of Charge No.I, which relates to conspiracy. In order to establish conspiracy, it has to be brought on record that there was a meeting of mind of all the charged officers with a view to extend unfair advantage at the examination to the student. The Inquiry Officer has recorded a finding that the substitution of original answer books of the student was done on 03.07.1995 or 04.07.1995 after the parcel had reached examination division. There is absolutely nothing on record to infer that there was a meeting of mind of all the Charged Officers in committing any wrong either on 03.07.1995 or 04.07.1995. Admittedly, on the basis of material placed on record, the petitioner comes in picture only on 27.07.1995, the day on which it is alleged that signature of the petitioner was taken by Shri Keni on the Result Register and the stencil and that he i.e. the petitioner directed declaration of results. The petitioner endorsed and approved the noting put up by Shri S.R.Phal on 27.07.1995 to declare the results. Thus, there is no meeting of mind of all the charged officers prior to 27.07.1995. The Inquiry Officer recorded a finding that the Article of Charge relating to conspiracy framed against the petitioner is not established.

14 So far as involvement of Shri Phal is concerned, a finding has been recorded that Shri Phal allowed to enter the inflated marks already written by him in the marks list of said three answer papers in the Result Register and signed the said Result Register and ordered that results be declared in spite of discrepancies and suspicious circumstances about the case. It is, thus, established that Shri Phal has written the marks in the marks list which was carried out in the Result Register and had put his signature on the Result Register and thereafter endorsed to declare the results.

15 So far as role of petitioner is concerned, it is alleged that in spite of bringing the facts to the notice of the petitioner that there is something suspicious about recording of marks, he had put his signature on the Result Register thereby approving the decision to declare the results. According to the petitioner, noticing that the endorsement has been put by Shri Phal to declare the results and on perusal of the endorsement of Shri Kamat - the charged officer no.3, he put his endorsement as a token of approval. The act of Shri Phal in recording enhanced marks in the Register and in the marks list, cannot be said to be with the approval or consent of the petitioner nor there is any evidence in that regard. It has not been specifically pointed out that there was a meeting of mind of all the charged officers prior to 27.07.1995. The Inquiry Officer has considered all these aspects and recorded a categorical finding that there is no evidence to show that the petitioner has colluded or conspired with remaining two Charged Officers to give undue advantage to student Rajendra Dessai in the examination and as such, the finding on Charge No.I has been

recorded in negative.

16 The Inquiry Officer held that the Article of Charge No.V in respect of gross negligence has been established against the petitioner since he failed in discharging his duties as supervisory authority to keep assessed the blank answer books in safe custody to prevent from being misused or being tampered with. It is also a matter of record that on the basis of report of Inquiry Officer, the Disciplinary Authority, on acceptance of the findings, directed imposition of punishment of penalty of compulsory retirement against the petitioner by an order dated 01.04.1997.

17 The said order was challenged in the writ petition presented by the petitioner, being Writ Petition No.318 of 1998 along with petitions presented by other Charged Officers. This court interfered in the matter and directed quashing of the order passed by the disciplinary authority with liberty to the petitioner to tender representation within fifteen days from the date of order to the disciplinary authority and it was directed to the disciplinary authority to consider the representation in accordance with Rule 15 of the Central Civil Services Rules and take appropriate final decision. The petitioner had tendered a detailed representation within contemplation of the order passed by the Division Bench of this Court.

18 The Executive Council of the University, in its meeting held on June 16, 2001, directed constitution of a Committee consisting of Professor Shri A.V.Afonso, Dr.A.K.Heblekar and Shri

Jalaj Srivastava. The Committee considered the representations tendered by the Charged Officers as well as number of documents, such as Professor Mahale-Principal Shirgurkar Committee Report, Justice Gustavo Couto's Preliminary Report, Shri Noronha Ferreira's Report (Inquiry Report), depositions of Charged Officers and witnesses at various inquiries, other documents, etc. The Inquiry Committee appointed by the Executive Council noticed involvement of Shri Keni, Lower Division Clerk in the examination Section and Shri Golatkar, Superintendent in the Examination Section and directed that inquiry proceedings should be started against them since depositions of various individuals, material evidence and their own contradictory statements point out their involvement in the examination fraud. It is further observed that *prima facie* there appears to be a crucial link between student Rajendra Dessai and the examination section.

19 The University Committee has issued the recommendations recorded above noticing that crucial evidence has been ignored to such an extent that it gives rise to complicity of the University Authorities in misdirecting evidence and deliberately protecting individuals, who, *prima facie*, seem to be involved in the examination fraud.

20 The University authorities, after receiving the report of the Committee appointed by the Executive Council, proposed to forward tentative findings of disagreement on various Articles of Charges to the charged officers and accordingly forwarded tentative findings dated 20.08.2001.

21 So far as Article of Charge No.1 in respect of conspiracy, framed against the petitioner is concerned, nothing has been disclosed as to how there was any meeting of mind between the Charged Officers in extending illegal benefits to the student. It is an accepted position that the petitioner has stepped into the controversy on 27.07.1995. The allegations against Shri Phal, Charged Officer No.1 are independent and it relates to recording of inflated marks in the marks list and the Result Register. It has not been spoken by anybody nor there is any other evidence that Charged Officer No.1 Shri Phal acted at the instance of petitioner or Shri Kamat. The final order passed by the disciplinary authority also does not disclose anything as to whether there was any meeting of mind or that there was a premeditated design prior to 27.07.1995 between all the Charged Officers to extend benefits to the student. It is noticed that the disagreement by the disciplinary authority with the Inquiry Officer on the findings of Article of Charge No.1, is without any foundation. Nothing has been disclosed by the disciplinary authority in the final order or even in the tentative findings of disagreement as to how the disciplinary authority comes to the conclusion that there was a conspiracy between all the charged officers for extending illegal benefit to the student. Thus, on the face of the final order of the disciplinary authority, the finding in respect of conspiracy alleged against the petitioner appears to be perverse. There is no material to support the finding nor there is any reason recorded to arrive at a conclusion that there was any premeditation or meeting of mind prior to 27.07.1995 between the Charged Officers.

22 Once the conclusion is reached that there was no

conspiracy between the Charged Officers, Articles of Charge No.III and IV also cannot sustain. The Article of Charge No.III is in respect of connivance of the petitioner with other officers and persons in fraudulently allowing entry of inflated marks already entered by Shri Phal in marks sheet in respect of three papers in the Result Register of the examination against the name of student Rajendra Dessai after rubbing out / erasing earlier marks entered by Shri Keni and checked by Shri Golatkar despite having knowledge of huge discrepancy in the earlier marks and answer papers.

23 Article of Charge No.IV is in respect of the charge that petitioner in connivance with other persons and in undue haste and without complying with the provisions of Ordinance No.21.47 (iii) finalised M.A. Part I and II examination results in order to give undue benefit at the examination to the student Rajesh Dessai. In the absence of elements of conspiracy or connivance, Articles of Charge No.III and IV cannot sustain.

24 Even after conclusion is reached that charge of conspiracy is unsustainable, the finding as regards gross negligence of the petitioner is unimpeachable. The Inquiry Officer has recorded a finding that the petitioner has failed in discharging his duties as supervisory authority to keep the assessed and blank answer books in safe custody to prevent from being misused or being tampered with. It is recorded by the Inquiry Officer in the report, as below:

“It is, therefore, unacceptable that when
Sequeira approached him on the morning of

28.7.95, in his chamber, bringing to his notice the discrepancies in respect of the 3 papers, his only reaction was that he could not do anything in the matter and that he Sequeira should file a written complaint. It is also symptomatic that he gave a veiled warning to Sequeira saying that, if it was found that the case was baseless, serious consequences could result to him, Sequeira. This attitude on the part of Dr.Parab is to be deprecated. In the first place the BOE, assuming that in our case it had decided to accept the marks in the 3 answer books, is not the final authority in declaring the result if there is suspicion of manipulation of marks. The Ordinance 21.47 clearly enumerates what are the duties and powers of the BOE in respect to the results to be announced. If there is the slightest suspicion that there has been manipulation or tampering with the answer books it is for the Examination Division to take up the matter without any delay so that the guilty one may be traced and nailed. Dr.Parab did not do anything in the matter. His averment that immediately after Sequeira left his chamber, on the said morning on 28.7.1995, he directed CO3 to seal all the papers related to the matter is doubtful. If he had done so he would have passed an order in writing and asked for the compliance report immediately. The first referene we find in respect of this sealing comes in a noting done 3 days later on 31.7.95. Besides, having he told Shri Sequeira that his complaint in writing was necessary, Dr.Parab would not be inclined to order the sealing of the papers before such complaint was filed.

Therefore, I repeat, it is my considered opinion that the attitude of Dr.Parab, CO2 in the present case is to be deprecated.”

petitioner has been accepted by the disciplinary authority. It is to be noted that prior to the first round of litigation, the disciplinary authority has accepted the report of Inquiry Officer and by an order dated 01.04.1997, decided to impose penalty of compulsory retirement against the petitioner. The said order was subjected to challenge by the petitioner before the Division Bench of this Court in Writ Petition No.318 of 1998. The writ petition was allowed and the matter was remitted back to the disciplinary authority. The disciplinary authority, on accepting finding of the Inquiry Officer on Article of Charge No.V i.e. regarding gross negligence of the Charged Officer together with other charges, which are held to have been proved by the disciplinary authority, proceeded to impose the same punishment i.e. penalty of compulsory retirement.

26 So far as quantum of punishment is concerned, there is less scope for causing interference in exercise of jurisdiction under Article 226 of the Constitution.

27 Learned Counsel appearing for Respondent-University has invited our attention to the judgment of the Supreme Court in the matter of **Rae Bareilly Kshetriya Gramin Bank Vs. Bhola Nath Singh**, reported in (1997) 3 SCC 657; and in the matter of **High Court of Judicature at Bombay Vs. Udaysingh s/o Ganpatrao Naik Nimbalkar and others**, to contend that the High Court, in the proceedings under Article 226 of the Constitution, does not act as an appellate authority, but exercises within limits of judicial review to correct the errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice.

28 A reference can be made to a judgment of the Supreme Court in the matter of **Union of India Vs. P. Gunasekaran**, reported in (2015) 2 SCC 610. In paragraph 12 of the judgment, it is observed by the Supreme Court, that the High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;
- (b) the enquiry is held according to the procedure prescribed in that behalf;
- (c) there is violation of the principles of natural justice in conducting the proceedings;
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
- (i) the finding of fact is based on no

evidence.

In paragraph no.13 of the judgment, the Supreme Court has directed that under Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) reappreciate the evidence;
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
- (iii) go into the adequacy of the evidence;
- (iv) go into the reliability of the evidence;
- (v) interfere, if there be some legal evidence on which findings can be based;
- (vi) correct the error of fact however grave it may appear to be;
- (vii) go into the proportionality of punishment unless it shocks its conscience.

In paragraph 20 of the judgment, it is observed by the Supreme Court that, it is not open to the High Court, in exercise of its jurisdiction under Articles 226/227 of the Constitution of India, to go into the proportionality of punishment so long as the punishment does not shock the conscience of the Court.

29 In view of the law laid down by the Supreme Court in the judgment cited *supra*, we are of the considered opinion that the punishment imposed by the disciplinary authority against the petitioner does not call for any interference. The disciplinary

authority has imposed punishment of compulsory retirement against the petitioner with effect from 29.03.2003. The appeal against the order of imposition of punishment, presented by the petitioner to the Chancellor of Goa University, has been dismissed by an order dated 8th January, 2004, thereby confirming the order of compulsory retirement issued by the disciplinary authority on 21.03.2003. In view of the order of punishment imposed by the disciplinary authority, the order of compulsory retirement shall have an effect from 29.03.2003. The pensionary benefits payable to the petitioner shall be worked out on the basis of last salary drawn, treating as if the petitioner was in employment in the month of March-2003, notionally. If, at all, the pensionary benefits have not been worked out in the manner stated above, Respondent-University shall work out the pension admissible to the petitioner correctly and if, at all, any arrears are payable, same shall be paid to the petitioner expeditiously and preferably within six months.

30 For the reasons recorded above, writ petition deserves to be dismissed and same is accordingly dismissed. Rule discharged. There shall be no order as to costs. Pending Misc. Civil Application, if any, does not survive and stand disposed of.

F.M.REIS
JUDGE

R.M.BORDE
JUDGE

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