

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8684 OF 2004

The State of Maharashtra Petitioner
vs
Revendra Mohan Dayal and ors. Respondents

Ms. S. S. Bhende, AGP for the petitioner/State.
Mr. Revendra Mohan Dayal, respondent No.1 in person.
Mr. Dhanesh R. Shah for Respondent No.2- Union of India

**CORAM: ANOOP V. MOHTA AND
A. A. SAYED, JJ.**

DATE : September 01, 2015

ORAL JUDGMENT (Per Anoop V. Mohta, J.):

Heard finally by consent of the parties.

2 The Petitioner/State of Maharashtra has challenged impugned order dated 18 June 2004 passed by the Central Administrative Tribunal, whereby Respondent No.1's Original Application No. 211 of 2003 was allowed and thereby observed as under :

“9 However, contention of the applicant that the respondents had not complied with interlocutory

orders of this Tribunal regarding the time limit prescribed for the conclusion of disciplinary proceedings is a serious matter, though it will not render the proceedings against the applicant as void. Cases where reference to UPSC is involved, a realistic view will have to be taken, considering the consultation with UPSC as a time consuming process.

It has been stated on behalf of the respondents that applicant had been granted permission to examine all relevant records from the office of DCF, Alibag, Collector Raigad, CF Thane and Commissioner, Konkan Division, even though no list of documents was provided by him and even the concerned authorities were informed. Thus respondents have maintained applicant's insistence that the record asked for by him on 12/3/2001 from the Collector's office was not available is not justified. We are not inclined to accept respondents explanation regarding non-availability of records for inspection by applicant. Though Collector had assured vide letter Annexure A 12 dated 12/3/2001 that relevant documents will be shown to applicant on receipt from Commissioner, applicant was never called for inspecting records on receipt from Commissioner but the respondents proceeded to conclude the enquiry against the applicant without showing him the promised documents. Such an arbitrary course has prejudiced applicant's case seriously.

On this ground also, we infer that respondents have faulted again, not followed principles of natural justice, disobeyed direction of this Court contained in order of 22/10/2001 and denied adequate opportunity of defence to the applicant. In this light we do not deem it necessary to record our findings on other issues raised in this OA.

11 In Tribunal's order dated 2/10/2001 by which OA No.51/2001 was disposed of, it was made

amply clear that in case final order is not issued as per the observations/directions of this Court, disciplinary proceedings will stand abated. We have found that the respondents have not made available to the applicant the documents as per the direction of the Court contained in order dated 2/10/2001 in OA No.851/2001 but have proceeded to conclude the enquiry against the applicant resulting in the impugned penalty. As the necessary documents were not made available to the applicant, applicant's defence has been seriously prejudiced. In the backdrop of the Tribunal's earlier orders and arbitrary action of the respondents in concluding the disciplinary proceedings without compliance of this Court's orders, the impugned orders at Annexure 1 and 2 dated 10/12/2002 and 3/9/2001 are quashed and set aside and the disciplinary proceedings against the applicant will naturally stand abated."

3 After hearing the learned AGP appearing for the Petitioner, we have also noted that apart from the reason so recorded above, there is nothing on record to show that an Inquiry Officer was appointed and/or any Inquiry Report was submitted referring to the charges so mentioned and pointed out. Respondent No.1 requested to appoint an Inquiry Officer and to give opportunity in every facets of the charges so levelled, but nothing was done by the Petitioner at the relevant time. Any decision, therefore, in the background, as taken against Respondent No.1, should have been after following the basic principles of natural justice. This, in the present case, we have noted, are missing. The reasons, therefore,

so given by the learned Tribunal need no interference as there is no perversity as pointed out and/or even made out, based upon the reason so given and in view of the above noted facts. Therefore, no case is made out. The writ petition is dismissed.

4 Rule is discharged accordingly.

5 No costs.

(A. A. SAYED, J.)

(ANOOP V. MOHTA, J.)

C E R T I F I C A T E

“ I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order.”

Uploaded by :D. G. MURUMKAR, Senior Private

Secretary to Hon'ble Judge

Uploaded on : 02/09/2015