

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.6400/2015

The State of Maharashtra through its Secretary, Finance Department,
Mantralaya, Extension, Mumbai

...Versus...

Sayeed Khan Sharif Khan

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. P.D. Rane, AGP for petitioner

CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.

DATE : 07.12.2015

By this petition, the State of Maharashtra challenges the order of the Maharashtra Administrative Tribunal, dated 28.11.2014, allowing an original application filed by the respondent and quashing and setting aside the order of minor penalty imposed on him.

The respondent was appointed as a Junior Clerk in the District Treasury Office. At the relevant time, there was a large scale misappropriation of the Government funds and since the respondent was working as a Junior Clerk and had entertained some bills, a charge of not maintaining the devotion to his duty was framed against him. A departmental enquiry was initiated and the Enquiry Officer did not find any substance in the charge levelled against the respondent. The Enquiry Officer exonerated the respondent of the charges. The State of

Maharashtra, as the Disciplinary Authority disagreed with the finding of the Enquiry Officer and imposed the punishment of reduction of the pay of the respondent to three stages. The order of the State Government was challenged by the respondent before the Tribunal. The Tribunal allowed the original application filed by the respondent and set aside the order of punishment.

On hearing the learned Assistant Government Pleader and on a perusal of the order of the Tribunal and the Disciplinary Authority, we find that the Tribunal was justified in setting aside the order of the State Government, imposing the minor penalty on the respondent. The Tribunal found that out of the four witnesses which the State desired to examine, only Shri J.R. Ingle was examined. The Tribunal found that there was nothing in the evidence of Shri Ingle to point out at what point of time the respondent committed the wrong. In the cross-examination, Shri Ingle feigned ignorance on almost all the questions. No material was placed on record before the Enquiry Officer to show what wrong was actually committed by the respondent. Though the Enquiry Officer had exonerated the respondent, the State Government, as the Disciplinary Authority disagreed with the view of the Enquiry Officer and recorded a finding that the respondent did not show the devotion to his duty. While recording this finding, the evidence of the sole witness examined on behalf of the State was also not considered by the Disciplinary Authority and the Disciplinary Authority only on the basis of the allegations levelled against the respondent held that the respondent was guilty, without perusing the evidence of the sole witness. In the circumstances of the case, the Tribunal was

justified in allowing the original application filed by the respondent.

Since the order of the Tribunal is just and proper, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

Wadkar