

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

WRIT PETITION NO. 6590/2014.

Shri Kishor Haribhau Rukmangad

-VERSUS-

Maharashtra State Power Generation Company Ltd. And others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.Y. Deopujari, Advocate for the Petitioner.
Shri A.D. Mohgaonkar, Advocate for the Respondents.

CORAM : SMT.VASANTI A. NAIK
AND A.M. BADAR, JJ.

DATE : JULY 29, 2015.

By this petition, the petitioner challenges the order of the Chief Engineer (Civil) and Competent Authority dated 26.06.2014, treating the suspension period, as a period of punishment for which no salary and allowances were payable to him.

Few facts giving rise to the petition are stated thus -

The petitioner was working as an Assistant Engineer in the Power Generation Company of the respondents at Khaperkheda. On 15.03.2013, a charge-sheet was served on the petitioner in respect of the charge of seepage in the tunnel, for which according to the respondents, the petitioner was

2

responsible. In pursuance of the charge-sheet, a full fledged departmental enquiry was conducted against the petitioner, and the petitioner was exonerated by the order dated 25.06.2013. On the exoneration of the petitioner, the Chief Engineer proposed that the suspension of the petitioner should be revoked. The Managing Director of the respondent (Establishment), however, wanted to fix the responsibility of the seepage in the tunnel on some employee, and therefore, after the petitioner stood retired on 31.08.2013, another full fledged departmental enquiry was conducted against the petitioner on the same charge. The petitioner was exonerated for the second time. Despite the exoneration of the petitioner in the second enquiry also, by the impugned order dated 26.06.2014, the Chief Engineer (Civil), imposed the punishment of treating the suspension period as a period of punishment for which no salary and allowances would be payable to the petitioner.

The aforesaid facts, as averred by the petitioner in the petition, and narrated by the learned counsel for the petitioner are not disputed by the respondents, and the learned counsel for the respondents. If that be so, it is difficult to gauge as to how a punishment could be inflicted on the petitioner after his exoneration in the departmental enquiry. In our view, if the petitioner was exonerated of the charges, in the first departmental enquiry, the respondents did not have any authority to conduct another departmental enquiry against the petitioner on the same charges, after the retirement of the

3

petitioner. The second departmental enquiry could not have been conducted against the petitioner at all. In that second departmental enquiry also the petitioner was exonerated, and despite his exoneration in the two departmental enquiries, for the reasons best known to the Chief Engineer (Civil), the petitioner was punished for a misconduct which he did not commit. The action of the respondents in inflicting the punishment on the petitioner by the impugned order dated 26.06.2014, is illegal and arbitrary. There was no propriety whatsoever in inflicting the aforesaid punishment on the petitioner, after he was exonerated in the first departmental enquiry. We find that the petitioner has been vexed and harassed due to the illegal action of the respondents, and admissible retiral dues are also not paid to the petitioner in view of the impugned order.

Hence, for the reasons aforesaid, the Writ Petition is allowed. The impugned order is quashed and set aside. In the circumstances of the case, we direct the respondents to pay costs – compensation to the petitioner to the extent of Rs. 25,000/-. The arrears of the retiral benefits and the other benefits payable to the petitioner should be released to the petitioner along with the costs- compensation, within a period of six weeks. Order accordingly.

JUDGE**JUDGE**

Rgd.