

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1501 OF 1997

Pushpa Sahebrao Patil,
deceased through L.R.
Sahebrao Himmatrao Patil,
Age 71 years, Occ. Agriculture
R/o Kajgaon, Tq. Bhadgaon,
District Jalgaon.

..Petitioner

Versus

1. Zilla Parishad, Jalgaon
through its Chief Executive
Officer.

2. The District Health Officer,
Zilla Parishad, Jalgaon.

3. The Commissioner,
Nashik Division, Nashik.

4. The State of Maharashtra.

..Respondents

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Advocate for Petitioner : Shri S.R.Barlinge
Advocate for Respondents 1 & 2 : Shri P.B.Patil
AGP for Respondents 3 & 4 : Shri S.D.Kaldate

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CORAM : RAVINDRA V. GHUGE, J.

Dated: August 25, 2016

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ORAL JUDGMENT :-

1. The petitioner is aggrieved by the order of punishment dated 18.4.1995, delivered by respondent No.1 - Chief Executive Officer, thereby awarding the punishment of stoppage of rise in salary for

three years with cumulative effect. The petitioner is also aggrieved by the order dated 6.6.1996, delivered by respondent No.2 - the Divisional Commissioner, by which, the appeal of the petitioner has been dismissed.

2. It needs mention that the petitioner / employee, subsequently passed away during the pendency of this petition and her husband has been brought on record as her legal heir.

3. Shri Barlinge, learned Advocate for the petitioner has strenuously criticized the impugned orders. He has narrated the entire facts of the case in details, which are borne out from the petition paper book and the record available. He, however, states that in the Appeal, preferred by the deceased employee, the enquiry and the findings of the Enquiry Officer were not at issue. It was the quantum of punishment that was under challenge, coupled with the submission that the charge levelled upon her was not proved.

4. He has seriously criticized the order dated 6.6.1996, on the ground that it does not set out reasons in support of the conclusions drawn, it is a cryptic order and being an unreasoned order, it deserves to be quashed and set aside. He has placed reliance upon the judgment of this Court (Full Bench) in the matter of Anil Amrut Atre Vs. District and Sessions Judge and another [2002 (3) Mh. L.J.

750], and contends that if the order is unreasoned, the same deserves to be set aside and the matter deserves to be remitted for a decision afresh.

5. Shri Patil, learned Advocate for respondents 1 and 2 and the learned AGP, support the impugned orders.

6. Having considered the submissions of the learned Advocates, I find that the charges levelled upon the deceased in the enquiry were held to be proved. A detailed second show cause notice was served upon the deceased seeking her explanation as to why she should not be dismissed from service for proved misconducts. It needs mention that the charges proved against the deceased were of the nature of dis-obedience of the orders of the superiors, refusal to join the place of transfer, refusal to handover the charge under the orders from the superiors, remaining unauthorizedly absent from 2.6.1990 upto 30.6.1992 (two years), mis-leading the establishment with regard to her husband taking away her service book, misleading the establishment while taking salary advance for the second time by suppressing the first instance and threatening the management with self-emulation.

7. There can be no dispute that the charges held to be proved against the deceased are of grave and serious nature. Strict Rules of

evidence as like in criminal proceedings, cannot be made applicable in service jurisprudence. The evidence produced before the enquiry officer having been sufficient to conclude that the charges have been proved, led the establishment to propose the punishment of dismissal from service.

8. It is noteworthy that the deceased submitted a detailed explanation on 20.2.1995, contending that the charges have not been fully proved against her and hence she should be exonerated. Respondent No.1 / Disciplinary authority considered the explanation of the deceased and concluded that since some of the charges are of serious nature, she should be awarded the punishment of stoppage of wage increments for a period of three years.

9. The thrust of Shri Barlinge's submission is that the appellate authority has not applied it's mind and has delivered a cryptic order. I have gone through the impugned order in the light of his submissions. Considering the challenge posed and since the charges were proved against the deceased, the appellate authority concluded that the disciplinary authority had in fact, shown leniency towards the deceased and though the punishment of dismissal from service was proposed, the same was reduced considerably to stoppage of wage increments for three years.

10. In my view, the conclusions drawn by the appellate authority in the light of the charges proved against the deceased, the proposed punishment and the actual lesser punishment awarded, cannot be termed as being perverse or erroneous. Since the appellate authority need not once again deal with each and every charge while deciding the appeal, I do not find that, that could be a cause for branding the impugned order as perverse, since the issue was only of the proportionality of the punishment.

11. In the light of the above, this petition being devoid of merits is, therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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