

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10341 OF 2014

Mr. Rahul Suresh Kulkarni,
Aged 35 Years, Occu. Nil,
res. Of Gitanjali Apartment,
11, Visava Park, Pirwadi,
District Satara

.... Petitioner

vs

1 The High Court of Judicature,
at Bombay, through its Registrar
General.

2 The Principal District and
Sessions Judge, at Satara,
District Satara.

.... Respondents

Mr. Uday P. Warunjikar for the petitioner.
Mr. Rahul Nerlekar for respondents 1 and 2.

**CORAM: ANOOP V. MOHTA AND
G. S. KULKARNI, JJ.**

DATE : September 16, 2016

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

The Petitioner has challenged the order passed by the Administrative Judge dated 21.09.2010 whereby the punishment so imposed of terminating the services based upon the earlier order

dated 2.5.2009 passed by the Principal District Judge, Satara has been confined.

2 The basic events are as under :

The Petitioner having qualification of B.A. from Shivaji University at Kolhapur, was appointed as a Junior Clerk in Civil Court at Karad on 11.07.2005. However, on account of reduction of the court number, a break was given to the Petitioner on 19.12.2005. Thus, for the period between 11.7.2005 to 19.12.2005 the Petitioner had worked on 118 days. As alleged, the Petitioner came late on 65 days. The Petitioner was thereafter appointed on probation of one year, by an order dated 16.3.2006. During the period of probation, on 57 days, the Petitioner was reported late and therefore an order came to be passed on 5.6.2007 by virtue of which the next increment was withheld. In June 2007, he was transferred to Civil Court at Dahivadi and worked upto March 2008. The Petitioner reported late for 22 days during the period from March to May and reported late for a period of 26 days from the period between June 2007 to March 2008. Accordingly, Registrar of the District Court submitted a proposal to the learned Principal District & Sessions Judge, based on

which a show cause notice dated 16.04.2008 came to be issued to the Petitioner calling upon him as to why departmental action should not be initiated against him. On 7.5.2008, the Petitioner submitted a detailed reply setting out various problems faced by him. However, the Principal District and Sessions Judge decided to proceed with disciplinary enquiry and the chargesheet was issued against him. The copy of charge sheet was dated 13.6.2008. The Petitioner made an application below Exhibit-8 and requested permission to appoint an Advocate. The permission was rejected and the Petitioner decided to conduct the matter personally. Charge was framed. The written submission was made by the Petitioner. Accordingly, the enquiry officer and Ad-hoc District Judge No.1, submitted the enquiry report and came to the conclusion that the charges were proved and therefore he proposed to impose penalty. A final order came to be passed in both the departmental enquiries against the Petitioner on 2.5.2009.

3 The Petitioner was dismissed from the Government services in Judicial Department of Satara under Rule 5(1)(x) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. On

1.6.2009 an Administrative Appeal was made by the Petitioner to the Hon'ble the Chief Justice of this Court and the Appeal was heard and was dismissed by the Hon'ble Administrative Judge on 21.09.2010.

4 It is not in dispute that initially in the year 2005 the Petitioner was appointed on temporary basis. Thereafter by appointment order dated 16.3.2006, he was appointed on temporary and ad-hoc basis. He had also suffered a minor penalty of stoppage of annual increment on 5.6.2007, but there was no progress and therefore, the impugned action/decision was taken.

5 Apart from the reasoned order given by the learned District Judge and the Administrative Judge, has also considered the the record and noted in paragraph 3 as under:

“3 After his reappointment, he came late to the office on 50 occasions and, therefore, his first increment was withheld permanently and he was warned to improve. He was transferred to the Court at Dahiwadi from June 2007 and at the new posting also he came late on 26 occasions and, therefore, notice was issued to him as to why departmental enquiry should not be initiated against him. After his reply was received, D.E. No. 4 of 2008 was started. However, for the period from 16/04/2008 to 14/11/2008 he reported late on 47 occasions and remained absent on

11 days. A show cause notice was issued to him on 15/9/2008 and after receipt of his explanation, D.E. No. 5 of 2008 was initiated.”

6 Therefore, taking overall view of the matter and there is no dispute about consistent late attendance of the Petitioner inspite of repeated warning/communications/memo and that he was absent on innumerable dates and the reasons, so given by the Authorities/Administrative Judge for imposing penalty, which, in our view, is well within the frame work of law and the record. There is no perversity and/or any dis-proportionality in imposing punishment as submitted. There is no case made out to interfere with the impugned orders/actions. The writ petition is dismissed.

7 No costs.

(G. S. KULKARNI, J.)

(ANOOP V. MOHTA, J.)