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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1455 OF 2014

Union of India and ors.	...	Petitioners
Vs.		
Mr. Hadish Khan	...	Respondent

Mr. Suresh Kumar a/w. Ms Sangeeta Yadav for the Petitioners.
Mr. Ramakant Patil i/b Mr. Sandeep Marne for the Respondent.

CORAM : V. M. KANADE, AND
M. S. SONAK, JJ.

DATE : AUGUST 04, 2016.

P. C.

1] The challenge in this petition is to the order dated 10 May 2013 made by the Central Administrative Tribunal (CAT), Bombay in Original Application No. 883 of 2011 quashing the second chargesheet issued against the respondent.

2] Mr. Suresh Kumar, learned counsel for the petitioners, has submitted that the first chargesheet issued on 11 March 1996 to the respondent had been withdrawn by the petitioners “*without prejudice*”. Therefore, the petitioners had every right to issue the second chargehseet and the CAT has clearly exceeded the jurisdiction

in quashing the second chargesheet on the ground that the charges levelled in the second chargesheet are identical to the charges that had been leveled in the first chargesheet. For this reason, Mr. Suresh Kumar submitted that the impugned order may be interfered with.

3] Mr. Ramakant Patil, learned counsel for the respondent, has submitted that the enquiry was held against the respondent in pursuance of the first chargesheet dated 11 March 1996. The enquiry officer exonerated the respondent and it is for this reason that the petitioners withdrew the first chargesheet. In these circumstances, in the year 2013, it was no longer open the petitioners to issue yet another chargesheet leveling the very same charges with some cosmetic changes. Further, Mr. Patil submitted that the respondent was appointed on compassionate grounds in the year 1984. By now, the respondent has completed over 32 years of service. Over 15 years of his service tenure were spent in defending the charges leveled in the chargesheet dated 11 march 1996. If all these circumstances are cumulatively considered, there is no case made out to interfere with the impugned order in the exercise of extra ordinary jurisdiction under Articles 226 and 277 of the Constitution of India.

4] In our judgment, there is no case made out to interfere with the impugned order. The CAT has rightly noted that there is no difference whatsoever in the charges leveled in chargesheet dated 11

March 1996 and second chargehseet dated 21 October 2011. The changes, if any, are only cosmetic in nature and do not relate to the substance of the chargehsheets. Further, these very charges, were enquired into by the enquiry officer and such charges were held as not proved by the enquiry officer. In case, the Disciplinary Authority was of the opinion that the findings of enquiry report did not warrant acceptance, there were sufficient provisions in the service rules, in terms of which, the Disciplinary Authority could have proceeded further in the matter. However, at that stage, the chargesheet itself was withdrawn by stating that such withdrawal is “*without prejudice*”. This is also not a case of some technical deficiency in the first chargesheet, which, prompted the petitioners to withdraw the said chargesheet “*without prejudice*”. This is a case where the first chargesheet was enquired into and the charges against the respondent were held as not proved. The benefit of such enquiry report cannot be denied by the petitioners, by merely withdrawing the chargehseet “*without prejudice*” . The CAT has considered the matter from proper perspective and there is no jurisdictional error in making the impugned order.

5] The respondent has already put in service of over 32 years. The charge relates to the year 1984. At this point of time, it would indeed be harsh to require the respondent to face yet another enquiry, when in fact, for the very same charge, the respondent was

exonerated. It is pertinent to note that the enquiry in pursuance of the first chargesheet continued for well over 15 years, until on 12 October 2011, the petitioners chose to withdraw the first chargesheet itself upon realizing that the enquiry officer has has exonerated the respondent.

6] For the aforesaid reasons, we are satisfied that no ground has been made out to interfere with the impugned order. Accordingly, we dismiss this petition. There shall be no order as to costs.

[M. S. SONAK, J.]

[V. M. KANADE, J.]