

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

WRIT PETITION NO. 214 OF 2016

Narendra Natthu Madavi

-vs-

State of Maharashtra, thr.the Secretary, Ministry of Home Affairs and others

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

Court's or Judge's Orders.

Mr.K.V.Deshmukh, counsel for the petitioner.

Mr.A.K.Bangadkar, AGP for the respondent Nos.1 to 4.

CORAM : SMT. VASANTI A. NAIK &
V. M. DESHPANDE, JJ.

DATE : 06.04.2016.

By this writ petition, the petitioner impugns the order of the Maharashtra Administrative Tribunal, dated 17/08/2015 dismissing the original application filed by the petitioner.

The petitioner was appointed as a constable in the State Reserve Police Force and a charge-sheet was served on the petitioner on 31/01/2002. An enquiry was conducted against the petitioner and it was found by the Enquiry Officer that almost all the charges levelled against the petitioner were proved. A notice was served on the petitioner on 06/02/2004 asking the petitioner to show cause as to why he should not be dismissed from service. The petitioner did not reply to the said notice, despite reminders. On 30/04/2004, the respondent No.2 passed the order terminating the services of the petitioner. The petitioner filed the departmental appeals against the order of termination, but they were dismissed. The petitioner challenged the order of his termination in the original application before the Maharashtra Administrative Tribunal. The Maharashtra Administrative Tribunal dismissed the original application by the order, dated 17/08/2015.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that there is no scope for interference with the impugned order, in exercise of the writ jurisdiction. It appears that a proper opportunity was granted to the petitioner and the serious charges levelled against the petitioner were held to be proved. It was proved that the petitioner persistently and willfully remained absent on duty without leave. It was proved that the petitioner also took the liberty of trying to throw a constable from the terrace where he was posted for duty. It was proved that when an officer in the department of the respondent was carrying the record in respect of the petitioner's absence from duty to the superior officer, the petitioner held the throat of the said personnel, threw him on the ground and assaulted him. It was proved that the petitioner irresponsibly threw his rifle on the parade ground on 24/12/2001 and left the parade ground only to return on duty on 04/01/2002. Since the charges levelled against the petitioner were grave and serious and since they were duly proved by the Department, the Tribunal rightly found that the punishment of dismissal, as imposed upon the petitioner, was proper and commensurate with the charges proved against the petitioner. The Tribunal found that though the petitioner belonged to a disciplined force, the petitioner frequently remained absent from duty without permission and valid reason, overstayed his leave, showed disrespect to superior officers while on duty, tried to push a fellow constable down the terrace and assaulted a superior officer. The Tribunal also found that the petitioner had undergone minor penalties on several occasions and this was not denied by the petitioner before the Tribunal. We do not find any illegality whatsoever in the impugned order so as to interfere with the same, in exercise of the writ jurisdiction. The submission made on behalf of the petitioner that the Disciplinary Authority should have recorded some reasons while passing the order of dismissal, in accordance with Rule 3 of the Bombay Police (Punishments and Appeals) Rules, 1956 and

since the order of dismissal does not record reasons, the same is liable to be set aside being devoid of merit. We find on a perusal of the order of the Disciplinary Authority that cogent reasons are recorded by the Authority while passing the order of termination. Also, we find that though the petitioner was asked to show cause as to why the punishment of dismissal should not be imposed upon him, the petitioner had failed to file reply to the said notice, despite reminders.

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

JUDGE

JUDGE

KHUNTE