

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

916 WRIT PETITION NO. 1584 OF 2005

DAYANAND PRABHAKAR ANNADATE

VERSUS

THE DISTRICT AND SESSION JUDGE AHMEDNAGAR & ANR.

Advocate for Petitioners : Mr. S R Barlinge

Advocate for Respondents : Mr. N. B. Suryawanshi

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 11th January, 2017

ORDER:

1. Misconduct is alleged against the petitioner. The petitioner, at the relevant time, was working as Junior Clerk. Allegations against the petitioner were that he had not prepared the decrees and bill of costs within time and there was delay in preparing decrees and bill of costs. The petitioner placed blame on judicial officer initially and thereafter came with a defence that the decree forms were not available. Departmental enquiry was initiated against the petitioner. The petitioner was found guilty. The disciplinary authority imposed punishment of stoppage of two increments permanently. Appeal filed by the petitioner is dismissed. Aggrieved thereby, present writ petition.

2. Mr. Barlinge, the learned counsel for the petitioner states that punishment of stoppage of two increments permanently is too harsh for the act complained of. The petitioner was misguided while taking such defence, however, has subsequently realized it and had put forth a stand that the decree forms were not available.

3. The learned counsel submits that fault cannot be directly attributed to the petitioner. The punishment of withholding two increments permanently is too harsh. The learned counsel relies on the judgment of the Apex Court in the case of B. C. Chaturvedi Vs. Union of India and others reported in (1995) 6 Supreme Court Cases, 749.

4. Mr. Suryawanshi, the learned counsel for the respondents submits that the defence taken by the petitioner of putting the blame on the judicial officer amounts to insubordination. The said defence is palpably erroneous one. The petitioner was guilty of non preparation of decrees and bill of costs. In such case, this Court would not interfere. The learned counsel relies on the judgment of the Apex Court in case of Union of India and others Vs. P. K. Sharma,

reported in AIR 2001 Supreme Court 3053.

5. We have considered the submissions.

6. This court would not re-appreciate the evidence in its writ jurisdiction under Article 226 of the Constitution of India. Enquiry was conducted. Proper opportunity was given to the petitioner and thereafter, the enquiry officer has submitted his report. The disciplinary authority has accepted the said report. The petitioner is found guilty of the charges framed against him. The said finding is a plausible finding. The petitioner was not expected to take such defence of putting blame on the judicial officer of his own fault.

7. The petitioner is imposed with punishment of stoppage of two increments permanently. The same would have effect on pensionary benefits also. The same would be harsh.

8. We uphold the punishment of stoppage of two increments. We, however, set aside the punishment of stoppage of two increments to the extent of "permanently". The petitioner shall not be given actual benefit of this order and the benefit be only

given notionally till this date. This order would inure to the benefit of the petitioner for pensionery benefit.

9. Rule is accordingly made absolute.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC