

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3281 OF 2018

Kiran s/o Ananda Bawaskar

Petitioner

Versus

Zilla Parishad, Jalagaon

through its Chief Executive Officer

Respondents

Mr.S.R. Barlinge advocate for the petitioner

CORAM : R.M. BORDE & K.K. SONAWANE, JJ

(Date: April 2nd, 2018)

PER COURT :-

1 The petition is directed against the order passed by the Chief Executive Officer, Zilla Parishad, Jalgaon.

2 The petitioner was placed under suspension for commission of offences punishable under section 306-A, 323, 504, 498-A read with section 34 of the Indian Penal Code. After registration of crime, he came to be arrested on 9.4.2011 and was in the Police Custody and Magisterial Custody up to 31.5.2011. The petitioner was in the Police custody for a period more than 48 hours and as such, he was placed under suspension by order dated 13.7.2011. The petitioner was served

with the charge sheet and after holding a full-fledged enquiry, the Enquiry Officer found him guilty for the behavior which is unbecoming of a teacher. The notice of show cause was served on petitioner, calling upon him to explain as to why punishment of stoppage of increments for a period of one year as well as treating the period of actual suspension as suspension period shall not be passed against him. The petitioner replied to the show cause notice which was not found to be convincing by the disciplinary authority and as such, the disciplinary authority directed imposition of punishment of stoppage of increment for one year as well as treating the period of actual suspension as period of suspension between 9.4.2011 to 24.2.2016.

3 The petitioner contends that the latter part of the order treating the period of actual suspension to be period of suspension cannot be considered to be a penalty within the meaning of the Maharashtra Zilla Parishad District Services (Discipline & Appeal) Rules, 1964 and as such the provision of appeal provided under Rule 13 will not be attracted in the instant case.

3 The contention raised by the petitioner is devoid of substance. Rule 12 provides that the order of suspension is

appealable. Rule 6 of the Rules provides for procedure for imposing major penalties; whereas Rule 7 provides for imposing minor penalties. In the instant matter, the procedure as laid down under the Discipline & Appeal Rules 1964 in respect of conduct of enquiry against the petitioner has been adhered and the punishment as detailed above has been imposed. Rule 13 provides for appeal in respect of orders imposing penalties. It cannot be contended that the order treating the actual period of suspension to be the period of suspension is not a penalty. The order has the civil consequences and affects the financial interest of an employee, in as much as puts stigma on him. The order of imposing penalty of treating actual period of suspension to be the period of suspension shall have to be regarded as the penalty within the meaning of provisions of Rules, 1968 and in view of Rule 13 of the Rules.

4 In view of above, keeping the option of the petitioner open to avail of remedies available in law, the writ petition is disposed of.

(K.K. SONAWANE, J)

(R.M. BORDE, J)