

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5500 OF 2018

Suresh Govindrao Kulkarni .. **Petitioner**

Versus

The State of Maharashtra and another.. **Respondents**

Shri Girish Nagori, Advocate for the Petitioner.

Shri A. V. Deshmukh, A.G.P. for Respondent No. 1.

Shri M. D. Narwadkar, Advocate for Respondent No. 2.

**CORAM : S. V. GANGAPURWALA &
SUNIL K. KOTWAL, JJ.**

DATE : 12th July, 2018

PER COURT :

1. Mr. Nagori, learned advocate for the petitioner submits that the impugned order dated 16.02.2018 passed by the respondent is without conducting any departmental enquiry. The respondents have imposed punishment of withdrawing one increment and so also treating the suspension period as such and not duty period. The learned counsel submits that even the name of the petitioner is deleted from the F.I.R. No offence is pending against the petitioner.

2. Mr. Narwadkar, learned advocate for respondent no. 2 submits that the name of the petitioner appears in the F.I.R.

Pursuant thereto, the impugned punishment is imposed.

3. It is not disputed by the respondents that no departmental enquiry was initiated against the petitioner nor the petitioner was issued with any show cause notice. It is also not disputed that the name of the petitioner is deleted from the Charge-sheet which was filed under Section 409 of the Indian Penal Code. In view of that, no criminal proceedings were also proceeded against the petitioner.

4. In absence of any proof of guilt on the part of the criminal court and in absence of any departmental enquiry or show cause notice being issued the respondents could not have imposed the punishment pursuant to the impugned order.

5. In the light of above, the impugned order is quashed and set aside. Writ Petition accordingly allowed. No costs.

6. Needless to state, the consequential benefits would follow.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]

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