

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6805 OF 2017
(Ganesh Barku Bhamre Vs. The Divisional Controller, Dhule)
WITH

WRIT PETITION NO.6839 OF 2017
(Vasudev s/o Dullabh Thorat Vs. The Divisional Controller, Dhule)

Mr.Uday Khonde h/f Mr.N.L.Choudhary, Advocate for the petitioners.
Mr.D.S.Bagul, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 11/07/2018

PER COURT :

1. Both these petitioners are identically situated and are aggrieved by the similar orders passed by the Industrial Court dated 07/02/2007 in Complaint (ULP) No.24/2006 and 07/09/2007 in Complaint (ULP) NO.50/2005. Pursuant to the judgments of the Industrial Court, the impugned orders of punishment issued by the respondent/Corporation have been modified and both these petitioners are imposed with the punishment of reduction of basic pay scale by one stage.

2. Both these petitions have been filed by these petitioners on 23/12/2016 and 22/12/2016 respectively for challenging the impugned judgments dated 07/02/2007 and 07/09/2007. The

delay is of almost 8 years in these petitions, if it is presumed that the reasonable period for filing a writ petition is 2 years.

3. Learned Advocate for the petitioners has strenuously criticized the impugned judgments. Contention is that both these petitioners have committed minor misconduct of disobeying administrative instructions which has led to a loss of about Rs.200/- to the respondent/Corporation. They are willing to deposit a penalty which could be 5 times or even 10 times of the loss caused. The punishment of reducing the basic pay scale by 1 stage is a disproportionate punishment.

4. Learned Advocate for the Corporation submits that the issue involved is not with regard to the quantum of loss caused to the Corporation. Issue is about the tendency of these petitioners to disobey the administrative instructions and the rules applicable.

5. Though I find that both these petitions need not be entertained on account of the inordinate delay, I have yet considered the rival submissions of the learned Advocates on the merits of the matter.

6. It is proved that both these petitioners were guilty of violating

administrative instructions which amounts to an act of insubordination, disobeying the lawful orders of the superiors and amounting to a behaviour which is subversive of discipline while in employment. The tendency to disobey the administrative instructions / rules are not to be considered in terms of the ill effects that have occurred on account of their conduct. What is required to be seen is the tendency to disobey the administrative instructions and cause insubordination ?

7. Contention of the petitioners is that the punishment awarded by the Industrial Court by reducing the earlier punishment imposed by the respondent/employer, is still a disproportionate punishment.

8. The Hon'ble Apex Court in the matter of Kumaon Mandal Vikas Nigam Ltd vs Girja Shankar Pant & Ors [(2001) 1 SCC 182 = AIR 2001 SC 24] has concluded that unless the punishment awarded appears to be shockingly disproportionate and unless it shocks the judicial conscience of the Court, no interference is called for. The respondent / Corporation has not challenged the impugned judgments by which the Industrial Court has not dealt with the issue of “shockingly disproportionate punishment”. Hence whether the Industrial Court has rightly interfered with the original punishment,

now cannot be scrutinized. Nevertheless, the misconduct proved and the punishment awarded by the Industrial Court do not appear to be disproportionate, much less shockingly disproportionate.

9. In the view of the above, both these petitions, being devoid of merit, are therefore, dismissed.

(Ravindra V.Ghuge, J.)