

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10612 OF 2013

Sudhakar Damodar Bahule	.. Petitioner
Vs.	
Union of India and ors.	.. Respondents

Mr.G.K. Masand i/b Mr.Ajeet A. Manwaru, for the Petitioner.
Mrs.Neeta V. Masurkar a/w Mr.Vinay Masurkar & Mr.Dhanesh R. Shah, for Respondents.

**CORAM : SMT. V.K.TAHILRAMANI ACTING C.J.
AND M.S.KARNIK, J.**

**RESERVED ON : 20th DECEMBER, 2017
PRONOUNCED ON : 10th JANUARY, 2018**

ORDER (PER M.S.KARNIK, J.) :

1. By filing this Petition under Articles 226 & 227 of the Constitution of India, the petitioner impugns the order dated 23/07/2012 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai. Pursuant to the disciplinary proceedings initiated the petitioner came to be compulsorily retired with due compensation pension and retirement compensation gratuity as admissible by order dated

27/06/2006. The Appellate Authority rejected the Appeal on 26/10/2006. The challenge to these orders before the Tribunal was unsuccessful.

2. The petitioner was working as a Lower Division Clerk (for short 'LDC') under Deputy Labour Welfare Commissioner (Central) at Khadki, Pune office. Learned Counsel for the petitioner submitted that the petitioner being a conscientious employee pointed out to the superior authorities that his immediate superior Shri Dharmrajan was not paying attention to some office matters. This upset Shri Dharmrajan. Shri Dharmrajan developed a grudge against the petitioner. While on duty on 10/10/2005, the petitioner was charged for gross misconduct and misbehavior for abusing Shri K.V. Dharmrajan, Deputy Labour Welfare Commissioner (Central) and other senior officers. It is also alleged that the petitioner manhandled Shri K.V. Dharmrajan inflicting and causing serious injuries to him. It was also alleged that while serving the suspension order on the petitioner, he behaved in unruly manner

and passed derogatory remarks and started abusing senior officers.

3. The petitioner was placed under suspension on 10/10/2005 pending disciplinary proceedings. During the course of enquiry as many as 9 witnesses were examined. The Enquiry Officer held the charges levelled against the petitioner as proved vide his enquiry report dated 20/04/2006. The petitioner by his representation dated 09/06/2006 to the Enquiry Officer's report raised objection to the manner in which the enquiry was conducted. According to the petitioner important witnesses were not examined which vitiated the enquiry. The impugned order of compulsory retirement was passed by the Disciplinary Authority on 27/06/2006. Appeal against Disciplinary Authority's order came to be rejected on 24/07/2006. The Tribunal by the impugned order dismissed the OA.

4. Learned Counsel for the petitioner Shri Masand

submitted that a false charge was framed against the petitioner only because his superior Shri Dharmrajan developed a grudge against the petitioner. Shri Dharmrajan was upset as the petitioner had approached the superior officers directly who in turn had reprimanded the said Shri Dharmrajan. Learned Counsel for the petitioner further contended that at the time of alleged incident the petitioner was with the Finance Section for grant of Medical Allowance in respect of his wife who was to be hospitalised. Shri Masand pointed out that security officer in his cross examination had confirmed that he did not hear any noise of the alleged incident though he was sitting in the next cabin. In the submission of Shri Masand, two material witnesses Shri V. H. Mahasavade as well as the Doctor who had examined Shri Dharmrajan were not examined. According to the learned Counsel though the medical certificate issued by the Doctor has been heavily relied upon by the Enquiry Officer to prove the charges, surprisingly the Doctor is not examined. Learned Counsel submits that the Appellate Authority has virtually not considered the contentions raised by him in his appeal memo

and thus, the Appellate order cannot be said to be a reasoned order. Learned Counsel invited our attention to the order passed by the Tribunal and contended that the Tribunal ought to have allowed the OA as charges levelled against the petitioner were palpably false. In his submission, the Tribunal also failed to appreciate the point of bias against the Enquiry Officer. He submits that his Annual Confidential Reports all throughout are excellent which should have been taken into consideration before imposing the punishment of compulsory retirement. The order virtually resulted in the petitioner's economic death and hence harsh.

5. Per contra learned Counsel for the respondents supported the order passed by the Tribunal. She pointed out that the scope of this Court or the Tribunal to interfere in disciplinary matters is extremely limited. According to her, reasonable opportunity was given to the petitioner to defend himself during the course of enquiry which was conducted in due compliance with the principles of natural justice. She

contends that charges levelled against the petitioner are serious in nature and he has not only abused senior officers but also manhandled a senior officer resulting in injuries to him. She further contends that this Court or the Tribunal cannot sit in Appeal over the findings recorded by the Disciplinary Authority.

6. We have heard learned Counsel and also gone through the order passed by the Tribunal. We have also perused the Enquiry Officer's report. We find that the petitioner has participated in the enquiry and has been allowed to cross examine the witnesses. It is a matter of record that the request of the Defence Assistant to recall 3 witnesses for recording cross examination was agreed in the interest of principles of natural justice during the course of enquiry. As many as 9 witnesses were examined. We find no merit in the contention of the learned Counsel for the petitioner that Shri Mahasavade should have been called as a witness. The Enquiry Officer has found that the petitioner could have produced the letter written by Shri Mahasavade as evidence or he could have presented Shri

Mahasavade as a witness who has supposedly endorsed date and time of receipt on the letter in his defence. The Enquiry Officer on the basis of the evidence on record especially statement of Shri G.R. Amalnathan has come to the conclusion that allegations of the complainant Shri Dharmrajan are substantiated. Medical document in respect of the medical examination of Shri Dharmrajan clearly indicates that he has received injury on right forehead which according to the Enquiry Officer corroborates the contention of Shri Dharmrajan that he was hit by the petitioner.

7. The 2nd charge against the petitioner was misbehavior that of using abusive language & passing derogatory remarks against the Controller & other senior officers and disturbing peaceful atmosphere at the work place. A total 8 witnesses were presented by the Disciplinary Authority, one of whom is a Joint Controller, have testified against the petitioner. The Enquiry Officer on the basis of evidence on record has held the charges levelled against the petitioner are proved.

8. We find that even the Appellate Authority by a reasoned order has dismissed the departmental appeal filed by the petitioner. The scope of interference in disciplinary matters in a Petition filed under Article 226 is extremely limited. We do not find any perversity in the findings of the Enquiry Officer or that this is a case of no evidence.

9. In this view of the matter, we are not inclined to interfere with the order passed by the Tribunal. The Petition being devoid of any merit is dismissed with no order as to costs.

(M.S.KARNIK, J.)

(ACTING CHIEF JUSTICE)