

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***ORDINARY ORIGINAL CIVIL JURISDICTION*****WRIT PETITION NO. 1078 OF 2013**

**The Secretary,
Shri Vile Parle Kelavani Mandal & Anr. Petitioners**

VERSUS

Prakash Gunaji More & Ors. Respondents

Mr.Sudhir Talsania, Senior Advocate, a/w. Ms.Manorama Mohanty,
Ms.Kavita Srivastava, i/b. M/s.S.K.Srivastava & Co. for the
Petitioners.

Mr.Digjamaan Mishra, a/w. Ms.Priya Rita, i/b. Mr.Sudhir S.Medhekar
for the Respondent no.1.

Mr.Vivekanand V.Krishnan, i/b. Mr.Rui A.Rodrigues for the
Respondent no.2.

CORAM : R.D. DHANUKA, J.

DATE : 6th SEPTEMBER, 2019

P.C.

By this petition filed under Article 226 of the Constitution of India, the petitioners have impugned the judgment dated 6th September,2012 passed by the Mumbai University and College Tribunal in Appeal No.08 of 2010 thereby setting aside the impugned punishment of termination dated 18th March,2010 of the respondent no.1 and directing his reinstatement in the post of senior clerk within two months and further directing that he would be entitled to 50% back-wages from the date of termination till his reinstatement with continuity in service.

2. The matter was argued by the learned senior counsel for the petitioners and partly by the learned counsel for the respondent no.1. At this stage, learned counsel for the respondent no.1 on instruction states that his client has no objection if the impugned judgment dated 6th September, 2012 passed by the Mumbai University and College Tribunal is quashed and set aside insofar as the directions in respect of the reinstatement of the respondent no.1 with the back-wages and continuity of service is concerned. He further states that the tribunal need not go into the issue as to whether the enquiry conducted by the enquiry officer against the respondent no.1 was proper or not and whether findings rendered by the enquiry officer were proper and in accordance with law or not. Statement is accepted.

3. Mr. Talsania, learned senior counsel for the petitioners has no objection if the matter is remanded back only for a limited purpose of rendering the finding about the quantum of punishment and based on the fact that the charges levied against the respondent no.1 by the petitioners were duly proved before the enquiry officer and are in accordance with law. Statement is accepted.

4. The impugned judgment dated 6th September, 2012 is quashed and set aside partly and the matter is remanded back to the Mumbai University and College Tribunal only for the purpose of determining the issue whether the punishment inflicted to the respondent no.1 by the petitioners based on the outcome to such enquiry was proper or not and whether the respondent no.1 would be entitled to any relief or not.

5. It is made clear that Mumbai University and College Tribunal is not required to go into the issue whether the enquiry conducted by the

enquiry officer having found the respondent no.1 guilty of all the charges was properly conducted or not and whether the findings rendered by such enquiry officer were in accordance with law or not.

6. Both the parties are directed to appear before the Mumbai University and College Tribunal on 16th September,2019 at 11.00 a.m. to enable the Tribunal to fix the early date of hearing.

7. All the parties are directed to co-operate with each other and with the Tribunal in disposing of the said appeal expeditiously and will not seek any adjournment unnecessarily.

8. The Mumbai University and College Tribunal is directed to make an endeavour to dispose of the limited issue remanded back by this court within three months from the date of the first hearing.

9. It is made clear that the Mumbai University and College Tribunal shall decide the limited issue in accordance with law and without being influenced by the observations made and the conclusion drawn in the impugned judgment dated 6th September,2012 on the issue of quantum of punishment.

10. The Tribunal as well as the parties to act on the authenticated copy of this order.

11. Rule is made absolute on the aforesaid terms. No order as to costs.

[R.D.DHANUKA, J.]