

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1243/2019

Arunesh Neeran S/o Dinesh Kumar Shukla

..Vs..

The Executive Council Mahatma Gandhi Antarrashtriya Hindi Vishwavidyalaya,
Wardha and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri K.B. Zinjarde, Advocate for the petitioner.

CORAM : Z.A. HAQ, J.

DATE : 20.2.2019.

Heard.

The petitioner, who was working as Assistant Professor in the respondent No.3 - University, is removed from service on the ground that the charge against him regarding misbehaviour with a girl is proved. Out of three Members of Arbitral Panel, two Members have recorded finding against the petitioner, and have upheld the action of the respondents.

Substantial challenge to the award and the action of the respondents is on the ground that the enquiry against the petitioner is not conducted in compliance with Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and principles of natural justice are violated. According to the petitioner, he was asked to cross-examine the witnesses examined by the Management though the

examination-in-chief of those witnesses was not recorded.

Two Members of Arbitral Panel have recorded in paragraph No.14 of the impugned award as follows:

“14. Turning to the facts of the case, we have tried to ascertain from the record of the enquiry proceedings as to whether the incident narrated by the complainant finds any corroboration in material particulars or the defence of the claimant is more probable. Perusal of the statement of the claimant's wife itself would reveal that she has admitted the fact that on the date of the incident the complainant had been to her resident whereas, the claimant has denied the same. According to the complainant, when she was about to leave, the lights went off. This statement of the complainant is also admitted to be correct by the claimants wife. As the incident narrated by the complainant finds support in material particulars from the statement of the claimant's wife, the same is more probable. The case of the claimant is one of the total denial. In that view of the matter, there is absolutely no need to re-visit the evidence as the enquiry officer has taken a probable view of the matter.”

Apart from the above, the facts on record show that on 16th July, 2013 the matter was fixed on 18th July, 2013 for cross-examination of the witnesses of the Management by the employee. The petitioner cross-examined the witnesses of the Management on 18th July, 2013 without raising any objection. The petitioner raised objection in the matter subsequently on 30th December, 2013 which apparently is an after thought move.

I find that the technical challenges raised by the petitioner are not required to be considered in the facts of the case considering the nature of charge against the petitioner and the reasons recorded by two Members of Arbitral Panel in paragraph No.14 of the award, specially that the wife of petitioner has not supported the claim of the petitioner that the complainant had not been to the house of the petitioner on the date of the incident. I see no reason to interfere in the matter. The writ petition is **dismissed**. No costs.

JUDGE

Tambaskar.