

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 512 OF 2013**

Mr. Kanchan Chodankar,
Constable, Badge No.3818,
Attached to Assolna Outpost
of Cuncolim Police Station,
Aged about 44 years,
Resident of H.No.326,
Tar Wada, Revora,
Bardez Goa.

... Petitioner

Versus

1. State of Goa through the
Chief Secretary, having office
at Secretariat, Porvorim,
Bardez Goa.
2. Chief Secretary,
having office at Secretariat,
Porvorim, Bardez Goa.
3. Office of Superintendent of Police (North)
Porvorim, Bardez Goa.
4. Director General of Police,
Goa Office of the Director General of Police,
Police Headquarters,
Panaji Goa.

... Respondents

Mr. Shivan Desai, Advocate for the Petitioner.

Mr. M. Salkar, Government Advocate for the Respondents.

**Coram:- M. S. SONAK &
SMT. M. S. JAWALKAR, JJ.
Date:- 5th March, 2020**

Oral Judgment (Per M. S. Sonak, J)

Heard Mr. S. Desai, learned counsel for the Petitioner and Mr. Salkar, learned Government Advocate for the Respondents.

2. The Petitioner challenges the orders dated 18th October, 2007, 25th April, 2008 and 19th March, 2013, in relation to his dismissal from service as a Police Constable.

3. The dismissal order is dated 18th October, 2007. The appeal against the same was dismissed by order dated 25th April, 2008, which the Petitioner has not been able to place on record. The revision was dismissed by order dated 19th March, 2013, which order finds place at pages 38-39 of the paper book.

4. Mr. Desai, learned counsel for the Petitioner points out that this is a case where the Petitioner was dismissed from service without conduct of any inquiry since, the Respondents invoked the provisions of Article 311(2)(b) of the Constitution of India. He submits that in such a situation, at least revisional authority, was required to examine the matter to determine whether the predicates of Article 311(2)(b) of the Constitution were fulfilled. He refers to the decision of the Hon'ble Supreme Court in the case of ***Union of India and another Vs Tulsiram Patel***¹ to submit that the revisional

¹(1985) 3 SCC 398

authority was duty bound to determine whether the subjective satisfaction recorded by the authorities which passed the dismissal order on the aspect of "*reasonable practicability*" to hold an enquiry was well founded or not. He submits that the order dated 19th March, 2013 passed by the revisional authority if perused, it is apparent that there is no consideration whatsoever of this most vital and relevant aspect of the matter. He therefore submits that the order of the revisional authority dated 19th March, 2013 may be set aside and the matter be remanded to the revisional authority for fresh consideration of the Petitioner's revision petition.

5. Mr. Salkar, learned Government Advocate defends the impugned order on the basis of the reasonings reflected therein. He attempts to refer us to the material on record to submit that the subjective satisfaction was properly arrived at by the authority which made the dismissal order.

6. According to us, since the Petitioner has been dismissed from service by invoking provisions of Article 311(2)(b) of the Constitution of India the revisional authority at least, was required to consider the contention with regard to the reasonable practicability or otherwise of holding an enquiry in the matter. The parameters for review of such orders have been laid down in *Tulsiram Patel* (supra). From perusal of the revisional authority's order dated 19th March,

2013, it is clear that the revisional authority has not even adverted to such parameters.

7. On the aforesaid short ground, we set aside the impugned order dated 19th March, 2013 made by the revisional authority and we restore the Petitioner's revision before the revisional authority. The revisional authority is now directed to hear the Petitioner and dispose of the revision petition as expeditiously as possible.

8. We make it clear that we have not adverted to the merits of the matter and we leave it to the revisional authority to dispose of the revision petition in accordance with law, by taking into consideration the various parameters laid down by the Hon'ble Apex Court in the case of *Tulsiram Patel* (supra).

9. Rule in this petition is made absolute in the aforesaid terms. There shall be no order as to costs.

10. All concerned to act on the basis of the authenticated copy of this order.

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.

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