

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION***

WRIT PETITION NO. 3438 OF 2015

Vishwas Shivaji Deshmukh

... Petitioner

V/s.

The Disciplinary Authority and
Principal District and Sessions Judge,
Nashik

... Respondent

Mr. Narendra V. Bandiwadkar for the Petitioner

***CORAM : NITIN JAMDAR &
M.S. KARNIK, JJ.***

DATE : 23 JANUARY 2020.

P.C. :-

The Petitioner was appointed as a Junior Clerk in the District Court, Nashik. By this Petition, the Petitioner has impugned a charge-sheet dated 17 March 2015 and an order dated 18 March 2015 for holding a Departmental Enquiry against the Petitioner. By order dated 18 March 2015 issued by the District and Sessions Judge, Nashik under Rule 8(2) Part IV of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979, stated that on the examination of material available, a *prima-facie* case exists against the Petitioner and an Enquiry Officer is appointed.

2. The scope of interference in writ jurisdiction is extremely limited at this stage when the employer has a right to initiate a disciplinary proceedings against the employee. According to the Petitioner the initiation of disciplinary proceedings should be quashed on two counts. First, that earlier, for the same incident, show cause notices were issued which were dropped and a conscious decision is taken not to proceed against the Petitioner. Second, on the basis of a note dated 5 March 2012.

3. We have gone through the show cause notices which were issued to the Petitioner on 23 March 2009 and 19 July 2010. We do not find from the record that there is no any conscious decision taken by the Authorities to drop the show cause notices having been satisfied that there is no misconduct committed by the Petitioner. Now an order is issued under Rule 8(2). The same cannot quashed on the ground merely because two show cause notices were issued earlier. These have not resulted in any positive decision in favour of the Petitioner.

4. The learned Counsel for the Petitioner relied upon an internal note which has been put up by the Administration dated 5 March 2012. According to the Petitioner it is stated therein that the proceedings need not be taken against the Petitioner as he is a prosecution witness in the Special Case. This argument cannot be accepted. This note, as it's subject shows was regarding initiation of

departmental enquiry against one Mr. V.F. Patil and the decision taken is *qua* Mr. Patil. It is only in the narration that a reference is made to the Petitioner. Even otherwise this note was prepared by the Administration. This in law cannot be considered as a legal bar to initiate a departmental enquiry.

5. In the circumstances, no interference in writ jurisdiction is warranted. On merits of the Petitioner's defence, the Petitioner has an opportunity to place the same in the Departmental Enquiry.

6. The Writ Petition is accordingly rejected.

M.S. KARNIK, J.

NITIN JAMDAR, J.

Jyoti P.
Pawar

Digitally signed
by Jyoti P.
Pawar
Date:
2020.02.01
11:06:44 +0530