

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
901 REVIEW APPLICATION (CIVIL) NO.164 OF 2020
IN WP/7163/2018**

RAMESH BABURAO FIRODE

..APPLICANT

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Sanket S. Kulkarni, Advocate for the Applicant.
Mrs. M. A. Deshpande, AGP for Respondents-State.
Mr. Rajendra S. Deshmukh, Advocate for Respondent
Nos.2 and 3.

...

**CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATED : 20th AUGUST, 2021.

PER COURT:-

1. The applicant seeks review of the judgment and order passed by this Court in Writ Petition No.7163/2018 dated 13.12.2019. Under the said judgment, this Court had dismissed the writ petition challenging the punishment imposed upon the petitioner pursuant to the departmental enquiry.

2. Mr. Kulkarni, learned counsel for applicant submits that he had contended before the Court that in respect of the alleged incident, no criminal case is filed against the applicant, nor private complaint is filed. The benefit of the same ought to have been granted to the petitioner. This aspect has not been dealt with in the judgment under review.

3. The learned counsel further submits that the alleged incident is concerning his private life and for the same the departmental enquiry could not have been conducted or action could not have been taken against the applicant.

4. The scope of the review is in narrow campus. The review cannot be dealt with as an Appeal in disguise.

5. As far as contention of the learned counsel for applicant that, the alleged incident is concerning his private life and not during employment is dealt with by this Court in paragraph 33 of the judgment.

6. The contention of the petitioner is that, the criminal case was not filed against the petitioner. The benefit of the same ought to have been accorded to the petitioner. The said submission may not hold water. In case of misconduct, the employer has power to conduct the departmental enquiry. The departmental enquiry has been conducted and the applicant has been found guilty. The burden of proof in a criminal case and departmental enquiry also differs. Even if the delinquent is not guilty in the criminal case, he can still be found guilty in the departmental enquiry. The non filing of a private complaint or criminal complaint against the applicant cannot be

a ground to contend that departmental enquiry could not have been conducted.

7. In light of that, no case for interference in Review Application is made out.

8. Review Application is rejected. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE