

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

WRIT PETITION NO.5870/2018

Rajendra Amrutrao Ghongade,
Aged about 52 years,
R/o. Mahavir Nagar, Yavatmal,
Tq & Dist. Yavatmal.

..... PETITIONER

// VERSUS //

1. The Divisional Commissioner,
Amravati, Division Amravati.
2. The Chief Executive Officer,
Zilla Parishad, Yavatmal,
Tq. & Dist. Yavatmal.
3. The Assistant Program Officer,
M.R.G.S. Panchayat Sammittee,
Tq. & Dist. Yavatmal

.... RESPONDENTS

Shri S. M. Vaishnav, Advocate for petitioner.
Ms. M. Barbde, AGP for respondent No.1.
Shri Rahul Tajne, Advocate for respondent No.2.
None for Respondent no.3 (served)

CORAM : AVINASH G. GHAROTE, J.

DATED : 01/10/2021

ORAL JUDGMENT :

1] Heard Mr. Vaishnav, learned counsel for the petitioner, Ms. Barbde learned AGP for respondent No.1 and Mr. Tajne, learned counsel for respondent No.2.

2] **Rule.** Rule made returnable forthwith.

3] Heard finally by consent of the learned counsel appearing for the parties.

4] A punishment of stoppage of two yearly increments for two years has been imposed upon the petitioner by the respondent No.1 by the impugned order dated 5.3.2018, modifying the punishment of stoppage of one yearly increment permanently, as imposed by respondent No.2 by the order dated 20.7.2016.

5] Mr. Vaishnav, learned counsel for the petitioner by inviting my attention to page 5 of the enquiry report dated 2.3.2016 submits that the work of filling of the e-muster was of the Assistant Program Officer, who thereafter was required to take the signature of the Block Development Officer and then send the same to the concerned Grampanchayat. It is therefore, submitted that it was the primary duty of the Assistant Program Officer, to have filled in muster roll and no liability could have been saddled upon the petitioner who was the Block Development Officer. The Block Development Officer was only to verify and put his signature upon the e-muster after the same were prepared by the Assistant Program Officer. That being so, it is the contention that no responsibility could be saddled upon the Block Development Officer, and consequent penalty be imposed on account of its so called violation.

6] The position that primary responsibility of filling in the e-muster roll was that of the Assistant Program Officer is not disputed by Mr. Tajne, learned counsel for respondent No.2, and if that was so, then role of the Block Development Officer becomes secondary and would come into play, only when the completed muster roll were placed, before him for his verification and signature, in absence of which, no liability could have been fastened upon the Block Development Officer, as it was not his responsibility at all. This position though evident from the enquiry report dated 2.3.2016, still the liability has been fastened upon the Block Development Officer/petitioner, in my opinion, incorrectly imposing punishment upon the petitioner which has been reduced by the respondent No.1. It is also on record that no action has been initiated upon the Assistant Program Officer whose primary duty was to prepare the e-muster roll.

7] It is therefore, apparent, that since no liability could have been fastened upon Block Development Officer/petitioner to fill in the muster roll which was the job of the Assistant Program Officer, the punishment imposed upon him was clearly not justified in the facts of the present case. That being the position the impugned order, as well as punishment imposed by the enquiry report dated 2.3.2016 are both quashed and set aside.

8] The Petition is, therefore, allowed in above terms. No order as to costs.

9] In case of any recovery has been made from the Block Development Officer on account of imposition of the penalty, the same be refunded back to him, within a period of two months from today.

Rule is made absolute in above terms.

(AVINASH G. GHAROTE, J)

Sarkate.