

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.619 OF 2021**

Dinesh s/o Anandrao Patil
Age : 33 yrs, Occ. Nil,
R/o, Plot No.38, Shrikrishna Nagar,
Tal.Chopda, District Jalgaon .. Petitioner

Versus

- 1) The Principal
Mahatma Gandhi Shikshan
Mandal's Arts, Science and
Commerce College at Chopda,
District Jalgaon.
- 2) The President,
Mahatma Gandhi Shikshan
Mandal's Arts, Science and
Commerce College at Chopda,
District Jalgaon.
- 3) The Joint Director,
Higher and Technical Education
Department, District Jalgaon .. Respondents

...

Mr.A.A. Mukhedkar for the petitioner.
Mr.A.C. Darandale for respondent nos.1 and 2.
Mr.K.B. Jadhavar, AGP for respondent no.3.

**CORAM : SMT. BHARATI H. DANGRE, J
RESERVED : 4th FEBRUARY, 2022
PRONOUNCED : 29th MARCH, 2022**

JUDGMENT:

1 The present petition challenge the judgment and order dated 18/12/2020 passed by the Presiding Officer of University and College Tribunal at Aurangabad in Appeal No. NMU-3-2019, upholding the termination of the petitioner at the hands of respondent no.1. The impugned order is assailed as perverse, being not based upon rational reasons, and it is pleaded that it has failed to take into consideration the status of the petitioner and considering him to be a permanent employee, the due procedure of law has not been adhered to, and this important fact has been overlooked by the impugned order, is the case of the petitioner.

2 Heard learned Advocate Shri A.A. Mukhedkar for the petitioner, Shri Mr.A.C. Darandale for respondent nos.1 and 2 and Shri K.B. Jadhavar, AGP for respondent no.3.

Rule. Rule made returnable forthwith. Heard by consent of the parties.

3 The brief background in which the contentions raised by the petitioner in the petition are to be appreciated, reveal that the respondent no.1 is the Principal of Mahatma Gandhi Shikshan Mandal's Arts, Science and Commerce College, Chopda, District Jalgaon, which is run by the Mahatma Gandhi

Shikshan Mandal, Jalgaon. The services of the petitioner were engaged by the respondent no.2 in the institute run by it i.e. respondent no.1 College.

The appointment of the petitioner was effected on the post of Library Attendant, by an order of appointment dated 23/2/2005, which contemplated on period of probation of two years, commencing from 1/3/2005 to 28/2/2007, the appointment being in the pay scale of 3050-4590. Based on the terms of the order of appointment, the petitioner claim that he came to be confirmed as Library Attendant with effect from 1/3/2008 and he continued to discharge his duties as Library Attendant since 2005. The petitioner pleads that his tenure is clean and unblemished and he worked with utmost devotion to the respondent no.1.

On 9/2/2016, a memo was issued to the petition, which levelled several charges against him, being minor in nature and included allegations, such as absenteeism, not maintaining cleanliness in the classroom, not opening classrooms on time etc. The petitioner, however, plead that the charges levelled against him did not relate to his working as a Library Attendant, which post he was holding in the respondent no.1 School and more so, the allegations levelled were in respect of his working in the year 2006 and onwards, which were too stale to be looked into. He responded to the notice, by stating that the charges are stale and do not relate to his work, which was of a Library Attendant.

He was proceeded departmentally, on the said charges and on culmination of the enquiry, his services came to be terminated by order dated 8/12/2016 with effect from 14/12/2016.

Being aggrieved by the said order, he approached the University and College Tribunal, Aurangabad by filing an Appeal u/s.59, and the Appeal was numbered as NMU-1/2017. Upon adjudication of the Appeal, the Tribunal, on 13/10/2017, partly allowed it, by setting aside the termination order dtd. 8/12/2016 but reserving the liberty in the Management to conduct fresh enquiry by observing principles of natural justice. The copy of the said judgment is also placed on record as Annexure to the petition. The Tribunal directed that the appellant/petitioner shall be given full opportunity to defend his case through his friend/representative and the Management shall take a decision in accordance with the procedure of law and relevant rules of Standard Code, 1984.

The Management approached the High Court, being aggrieved by the judgment of the Tribunal and even the petitioner who was not extended the benefit of back wages/salary and continuity in service, also filed a separate Petition before the High Court. Both the Writ Petitions came to be disposed off by a common order passed by this Court on 10/8/2018, in which the Court carved out a detail procedure, to be followed while conducting departmental enquiry against the petitioner and he

was deemed to be suspended with effect from 1/12/2018. The Education Department was directed to consider the proposal coming from the Management for payment of subsistence allowance to the delinquent from the month of December 2018 and for the forthcoming months on regular basis till the enquiry culminated into a final decision.

Specific directions were issued for conduct of enquiry from the stage of the employee/petitioner tendering his detailed affidavit in form of additional reply to the charge-sheet, and the salient clauses of the directions are reproduced as under :-

(B) Since the enquiry officer has been appointed as per the Standard Code of 1984 applicable to the non-agricultural Universities in the State of Maharashtra, the litigating sides would appear before the enquiry officer on 2.1.2019 at 11.00 a.m

(C) The employee is at liberty to engage any friend, notwithstanding whether he is a teacher or a professor or a retired teacher, but shall not be an Advocate or a person who has acquired the degree of LL.B, as his defense representative and the said defense representative shall remain present on 2.1.2019.

(D) The management has examined 17 witnesses, who were discharged earlier as the employee denied to cross examine them. It shall keep each witness present, may not necessarily be in serial order of their examination, on

every Wednesday and Saturday beginning from 2.1.2019, for cross-examination at 11.00 a.m.

Several other directions were also issued, so as to culminate the enquiry/proceedings, in a time bound manner and the contention of the employee/petitioner with regard to back wages from the date of his earlier termination dated 8/12/2016, was kept open to be considered in appropriate proceedings.

4 In the wake of the aforesaid directions, the Departmental Enquiry was re-initiated/continued against the petitioner from the stage of submission of reply to the charge-sheet.

After following the procedure set out by the High Court and by specifically adhering to the directions, the enquiry was concluded and the proceedings of enquiry are annexed to the petition.

On conclusion of the proceedings, the earlier action of terminating his services on account of the charges of dereliction of duties and insubordination, his services came to be terminated on 18/7/2019, against which the petitioner once again approached the Tribunal and this time, his Appeal came to be dismissed on 18/12/2020 by a detailed judgment, analyzing the charges levelled against the petitioner and the finding rendered by the enquiry officer and by holding that the Management has succeeded in proving the charge of disobedience, dereliction of

duty and making false allegation against the superiors against the petitioners. The conduct of the petitioner was described as grave misconduct as the Tribunal upheld the punishment of termination, though a major penalty and the Appeal of the petitioner came to be dismissed.

5 The learned counsel for respondent nos.1 and 2 has placed on record, the sequence of events leading to the punishment being imposed upon the petitioner, as an outcome of his continuous mannerism amounting to misconduct and dereliction of duties. He would submit that since the year 2005, i.e. the date of his appointment as a Library Attendant upto the year 2015, ten memos came to be issued to the petitioner and on one occasion, he admitted his fault, tendered apology and even paid fine of Rs.500/-. On 24/3/2014 and 29/10/2014, a fine of Rs.100/- was levied on him. On 12/2/2015, a show cause notice was issued to him when he admitted the fault and tendered an apology and gave an assurance not to repeat his objectionable conduct. In the year 2015-16, 18 memos issued to him, which was followed by a charge-sheet, to proceed against him, departmentally. The enquiry commenced and 17 witnesses came to be examined during the course of the enquiry, but since the petitioner did not cross-examine the witnesses, the termination order was set aside by the Tribunal at his instance in an Appeal and the matter was remanded for fresh enquiry.

The counsel would submit that the petitioner continued with his attitude of causing embarrassment to the Management and even the Enquiry Officer has also observed about his conduct in his report, when the petitioner failed to attend the proceedings and avoided to cross-examine the witnesses and in one way or the other, delayed the conclusion of the proceedings. Ultimately, his services came to be terminated by order dated 18/7/2019, after following the procedure prescribed and this time, the Tribunal had dismissed his Appeal on 18/12/2020.

6 On perusal of the copy of the writ petition and the annexures accompanying the petition, the petitioner raised his claim on three grounds; delay in conduct of enquiry, i.e. the charges being stale, the charges not being related to his work of library attendant but referring to the duties of Peon and the disproportionate penalty imposed in the wake of the minor charges. Apart from this, he also raised a ground about non-following the procedure prescribed in the Maharashtra Civil Services Rules, particularly Rule 8(20).

The Enquiry Report and the finding of the disciplinary authority will therefore, have to be tested as against the aforesaid grounds raised by the petitioner, praying for setting aside the impugned order of termination and seeking his reinstatement with full back wages.

7 It is a well recognized principle that in exercise of the power of judicial review, this Court can interfere in the findings of the enquiry, only when it is satisfied that the finding recorded by the Enquiry Officer or disciplinary authority are based on no evidence and there is no material to support the conclusion so arrived and the material is of such a nature that no reasonable person would derive such a conclusion or when some irrelevant material is taken into consideration. It is also well established principle of law that the High Court exercising the power of judicial review under Article 226 of the Constitution, do not act as an appellate authority but its jurisdiction is confined and circumscribed to correct the errors of law or procedure, if any, resulting in manifest miscarriage of justice or violation of principles of natural justice.

The power of judicial review to be exercised is not akin to adjudication on merit by re-appreciating the evidence as an appellate authority. Their Lordships of the Supreme Court in Indian Oil Corporation Ltd & Anr Vs. Ashok Kumar Arora, (1997) 3 SCC 72, while considering the scope of interference by the High Court in cases relating to Departmental Enquiry has observed as under :-

"20. At the outset, it needs to be mentioned that the High Court in such cases of departmental enquiries and the findings recorded therein does not exercise the powers of appellate court/Authority. The jurisdiction of the High Court in such cases is very limited for instance

where it is found that the domestic enquiry is vitiated because of non-observance of principles of natural justice, denial of reasonable opportunity; findings are based on no evidence, and or the punishment is totally disproportionate to the proved misconduct of an employee. There is catena of judgments of this Court which had settled the law on this topic and it is not necessary to refer to all these decisions. Suffice it to refer to few decisions of this Court on this topic viz., State of Andhra Pradesh Vs. S.Sree Rama Rao, 1963 (3) SCR 25, State of Andhra Pradesh Vs. Chitra Venkata Rao, 1976(1) SCR 521, Corporation of City of Nagpur and Anr. Vs. Ramachandra, 1981 (3) SCR 22 and Nelson Motis Vs. Union of India and Anr., AIR 1992 SC 1981.

8 The same view was reiterated by the Hon'ble Apex Court in case of Principal Secretary, Government of A.P and Anr. vs. M.Adinarayan, where it was held by their Lordships, that the order of Administrative Tribunal interfering with well considered order of the Disciplinary Authority is unwarranted.

The Tribunal cannot sit as a Court of Appeal over a decision based on the finding of the enquiry authority in disciplinary proceedings. Where there is some relevant material, which the disciplinary authority has accepted and which material reasonably supported the conclusion reached by the disciplinary authority, it is not the function of the Tribunal to review the same and reach a different conclusion. So, it is well settled that if the findings recorded by the Tribunal or of the Disciplinary Authority is found to be perverse, which is not based on legal evidence, then the administrative Tribunal or the Court is

empowered to treat it as a legal flaw and quash the impugned action and in the instant case, the fact finding authority has based its findings on legally permissible substantive evidence and therefore, such a finding on fact, based on substantive evidence, is not permissible to be interfered with.

"25. In our opinion, the Administrative Tribunal cannot ignore the findings of the disciplinary authority or the tribunals. The truth or otherwise of the charge, is a matter of the disciplinary authority to go into. The finding of the court or tribunal under judicial review which, in our opinion, cannot extend to the re-examination of all evidence to decide the correctness of the charge. In our view, the Administrative Tribunal cannot sit as a court of appeal over a decision based on finding of the enquiry authority in disciplinary proceedings. This court, time and again, categorically stated that court should not interfere with the quantum of punishment where there is some relevant material which the disciplinary authority has accepted and which material has reasonable supports, the conclusion reached by the Disciplinary Tribunal, it is not the function of the Administrative Tribunal to review the same and reach a different finding than that of the disciplinary authority".

9 The enquiry proceedings against the petitioner and the findings rendered therein, will have to be appreciated in the light of the aforesaid position which has been crystallized to the above effect.

The charge-sheet was issued to the petitioner, at the relevant time under the Non-Agricultural Universities and Affiliated Colleges Code, 1984, as per Rule 42 and five charges

were levelled against him, which were further bifurcated by giving particular instances, date wise. The charge-sheet levelled the following accusations against the petitioner.

Charge no.1 – Rule 41 of the Code :

Violation of the rules/orders. Under the said charge, 11 specific instance right from 2006 to 2015 are set out, as to how the petitioner has avoided to follow the orders of the superior, resulting in breach of the discipline.

Charge No.2 : Rule 42F of the Code.

Refusing to accept the letters issued to him under - Rule 42F of the Code.

Charge No.3 : Rule 42H of the Code.

Indisciplined behaviour.

Under this charge, 11 instances form sub charge and cover for the period commencing from 5/2/2013 to 31/10/2015.

Charge No.4 : Rule 42 I of the Code.

Dereliction of duties.

Even under this head, 10 instances, which lead to a conclusion that he is avoiding to perform the duties assigned to him, are included.

Charge No.5 : Rule 42-O of the Code.

Making false accusation against the superiors/competent officers.

10 Pursuant to the show cause notice being issued, the petitioner submitted his detail reply on 16/2/2016, denying the accusations and specifically stating that there is no substance in the said charges, which are levelled against him with a malafide intention, with a view to get rid of his services.

The enquiry proceedings which are placed on record, are perused by me during the course of hearing, which reveal that the evidence of these witnesses was recorded in the presence of the enquiry officer, presenting officer and the delinquent i.e. the present petitioner. On completion of the enquiry, the enquiry officer submitted the report on 16/9/2016 recording that all the five charges levelled against the petitioner were proved. However, on the ground that the petitioner had not cross-examined the witnesses, the matter was remanded back to the Tribunal for fresh enquiry from the stage of affording an opportunity for cross-examining the witnesses.

The directions issued by this Court on 10/12/2018 in the Writ Petition filed by the Management as well as the petitioner specifically directed that the petitioner shall be given an opportunity to respond to the charge-sheet by submitting his additional reply and he was also given liberty to engage any friend, either teacher or a professor or a retired teacher, but not an Advocate, or a person who has acquired LLB degree, the High Court had fixed a schedule within which the enquiry was to be concluded in accordance with law and the Rules.

11 On the remand of the matter to the Enquiry Officer, on 1/6/2019, the petitioner submitted his detailed reply/say, denying all the allegations levelled against him by clamping it as baseless and specifically denying each and every charge. The presenting Officer who also submitted his detailed response, joined him, by reaching a conclusion that the petitioner employee was responsible for acting in violation of the Code of Conduct and in discharge of his duties and despite repeated opportunities being given for improving his conduct, he continued with his indisciplined and irresponsible behaviour, causing obstruction in the administration and creating an adverse impact upon the other employees. Despite imposing the minor penalty like censure, warning, leave without pay, penalty, there was no improvement in his approach is what is stated.

 The petitioner also submitted his additional reply to the enquiry officer, stating that the charges levelled against him are minor in nature and therefore, do not warrant any enquiry. He, further, represented his stand to the effect that he was appointed as Library Attendant and was governed by the service conditions applicable to the non-teaching staff by the 1994 Code, but the charges levelled against him are outside the scope of his duties and therefore, he is not agreeing to the said charges. His additional communication dated 8/5/2019 pleaded that he may be granted benefit of doubt and acquitted of the charges.

12 The Enquiry Officer thereafter, proceeded further and afforded opportunity to the petitioner to defend the charges and the actual proceedings of enquiry, on remand by this Court commenced from 2/1/2019 and continued till 4/6/2019, which was spread over to 33 hearings. The detailed enquiry report placed on record as Exhibit R-4 along with the affidavit of the respondent placed at page 260 of the paper book deal with five charges faced by delinquent and the enquiry officer also noted that on several occasions, he had admitted his guilt and apologized to the Management and this included his apology tendered on account of proceeding on leave without application and this apology is contained in his reply/response to the show cause notice.

13 The Enquiry Officer specifically record that from 2/1/2019 to 5/1/2019, though the witnesses were present, for cross-examination, the petitioner chose not to cross-examine them and therefore, 'no cross order' was passed. Further, on 2/2/2019 also, the witnesses were present, but the delinquent/petitioner remained absent. The 'no cross order' was set aside on his request by the Enquiry Officer and an opportunity was afforded to cross-examine but he failed to exercise his right. The report also record that though an opportunity was given to him to submit his final argument, he refrained from doing so. The

conduct of the petitioner was specifically observed by the Enquiry Officer and commented upon, in the following words :

"The delinquent Shri Dinesh Anandrao Patil remained absent without permission of the Enquiry Officer, his conduct of not cross-examining the witnesses despite their presence, his absence/late presence, seeking extension for citing witnesses in his defence and his hesitancy in submitting the written submissions, resulted in adjoining the proceedings on 10 occasions. The conduct of the delinquent amounted to creating obstruction in the Enquiry proceedings and is a reflection of his indiscipline behaviour"

14 On the basis of the evidence which has come on record, in the enquiry proceedings and recording that all the charges are proved against him, in the interest of the Society, and atmosphere of the Society, particularly it being an educational institution and in the interest of the students, the Enquiry Officer in his report dated 8/6/2019, proposed imposition of major penalty of termination on the delinquent.

The recommendation came to be accepted, resulting into services of the petitioner being terminated and this order being upheld by the School Tribunal by the impugned judgment.

15 Now, I shall proceed to deal with the contention advanced on behalf of the petitioners, in support of the relief claimed.

The contention of the petitioner that the charges levelled against him are stale and therefore, no enquiry was warranted, do not deserve any consideration. Pertinent to note that the career graph of the petitioner reveal that from his appointment in the year 2005 to the year 2015, he was issued 10 memos and he had admitted his fault, expressed apology and also paid fine. In the year 2014, he was punished twice by imposing fine of Rs.100/- on account of his unruly behaviour. In the year 2015-16, near about 18 memos were issued to him. The charge-sheet issued against the petitioner broadly categorized his behaviour in terms of Rule 42 of the Standard Code of 1984 under distinct heads :- Disobedience of the orders, Dereliction of duty, Levelling false allegations against superiors, Refusing to accept official communications and Indisciplined behaviour.

All the above charges came to be proved during the enquiry proceedings through 17 witnesses, who were examined during the course of enquiry and the Enquiry Officer, on the basis of the evidence brought before him recorded a finding of guilt, as against the delinquent on all the five major head/charges. The detail enquiry report specifically deal with each charge as well as the incidents relied upon to establish the said charge and the witnesses examined, confirmed the said incident which was clearly amounting to misconduct on the part of the employee. There is no challenge to the enquiry report on merits by the petitioner, except stating that the charges are stale.

16 Before me is an employee, who was always at dissonant with the Management, and though the Management afforded several chances to him to improve upon his conduct and mindful of his guilt at times, the petitioner apologized and was also fined, but unfortunately, he never mend his ways. He continued to behave in a disorderly and rebellious manner, creating disruption and intrusion in the administration and this left the Management with no choice, than to proceed against him departmentally. The charges levelled against him only took into account the incidents reflecting upon his defiant and balky approach, being responsible for dereliction of duty and insubordination, by not following the orders given by the superiors. Therefore, the arguments that the charges were stale, do not warrant any consideration, since it only reflect the consistency in the behaviour of the petitioner, over years and despite condoning his behaviour at times, there was no improvement.

17 Another ground which is pressed into service is non-followance of Rule 8(20) of the Maharashtra Civil Services (Disciplinary Appeal) Rules. Pertinent to mention that the petitioner was initially governed by the Standard Code, 1984 applicable to the non-teaching employees and governing their service conditions. However, from the working and disciplinary action of the non-teaching employees was shifted to the Maharashtra Civil Services Discipline and Appeal Rules 1979.

Part-IV of the MCS (Discipline and Appeal Rules, 1974) set out the procedure for imposing the major penalties and on careful perusal of the enquiry proceedings conducted against the petitioner, the entire procedure as set out, has been adhered to, including the drawing up of substance of imputation of misconduct or misbehaviour into definite and distinct article of charge and affording opportunity to the delinquent to respond to the said charges. As far as Rule 8(20) is concerned, of which much hue and cry is made by the petitioner, reads as under :-

Rule 8(20) : The enquiry authority may, after the Government closes his case and shall, if the Government servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Government servant to explain any circumstances, appearing in the evidence against him.

The above said Rule is not attracted since in the present case, the petitioner himself was examined, as the Tribunal has rightly observed that the appellant filed an application before the Enquiry Officer, stating that he is not desirous of examining any defence witness. He gave his statement before the Enquiry Officer and requested his statement to be treated as defence evidence. Even a detail statement in reply given by him brought his defence before the Enquiry Officer and therefore, the aforesaid Rule cannot be invoked by him, in stating that no question was put to him by the Enquiry Officer. In any case, he

was afforded enough opportunity to bring his evidence by examining any witness, which he declined and he even did not bother to cross-examine the 17 witnesses and for this situation, and loss of opportunity, he has to only blame himself.

18 Another ground on which the petition rest is, that the charges levelled against him do not relate to his duty as Library Attendant but they pertain to the duty of a peon.

The counsel for the respondent has invited my attention to Rule 11 of the Standard Code, 1984, which reads thus :-

“(11) Duties : The duties of the non-teaching employees including Officers shall be as specified in the Form 5 in Appendix I appended to these rules. Subject to the provisions of the Acts, Standard Code and Regulations, the employee shall also perform the duties and carry out the functions assigned to him by the Registrar or the Principal, as the case may be, from time to time. The employee shall not refuse any work assigned to him in addition to his normal duties.”

Over the years, the petitioner was entrusted with various duties by the Principal, and he never raised an objection and even the evidence of the other witnesses which has come on record during the course of enquiry, would reflect that distinct duties were entrusted to the employees by the Principal/ Management and they were duty bound to abide by the same. It

was open for him to refuse to perform the duties if they fell beyond his assigned one, but the charge faced by him is that he accepted the duties, but there was dereliction in its discharge. The petitioner is therefore, not entitled to call in question the finding rendered by the Officer on the ground, that it did not pertain to his duty of Library Attendant.

19 The petitioner was afforded every opportunity by the management to participate in the enquiry proceedings and in the first round, the report of the Enquiry Officer was set aside since it found to be violating the principles of natural justice as the appellant was not allowed to cross-examine the witnesses but, even on remand of the proceedings to the Enquiry Officer, he failed to avail the said opportunity. The Enquiry Officer in his report, has clearly referred to the conduct of the delinquent during the course of the proceedings and has commented upon his casual approach.

The petitioner, in any case, has failed to plead or prove any prejudice on account of alleged violation of any procedure. In fact, the petitioner himself is responsible for avoiding to participate in the enquiry proceedings, since he did not co-operate with the enquiry officer, when it was incumbent on him to bring the lapses, if any, to the notice of the enquiry officer, during the enquiry proceedings. He did not even bother to submit his final submission and he is trying to make capital out

of his own lapses, in not abiding by the directions of the Enquiry Officer. He has failed to place on record any facts or material to bring what prejudice has been caused to him and by what action of the Enquiry Officer.

20 The last leg of argument of the petitioner being penalty imposed is disproportionate, since the charges levelled against him are trivial in nature and not being proved in the enquiry. The aforesaid objection also deserve a similar treatment, since the position of law being well settled, that the judicial review cannot be directed against the decision, but has to be confined to the decision making process and this Court is not sitting in Appeal over the decision of the Enquiry Officer and it is not open for me to re-appreciate and re-apprise the evidence led before the Enquiry Officer and examine the findings of appeal as the Court of Appeal and reach at my own conclusion.

21 As far as the sufficiency of penalty is concerned, once I have recorded a finding that the enquiry was conducted against the petitioner in accordance with the procedure prescribed in that behalf and there was no violation of principles of natural justice and since the enquiry officer has found the petitioner/delinquent officer guilty of the charge, it is not permissible for me to interfere in the findings of the Enquiry Officer, since the Enquiry Officer himself is the sole judge of facts, and since there is sufficient legal

evidence, on which the findings are based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before me in a proceeding for issuance of writ, filed under Article 226 of the Constitution. I am therefore, not inclined to interfere with the finding of fact recorded by the Enquiry Officer and upheld by the Tribunal, since my powers are confined to the decision making process, but not to the decision. The penalty imposed in the background of the charges levelled against the petitioner and all the charges having been held to be proved during the course of enquiry, do not warrant any interference.

22 Another important aspect which must be given due weightage, is the troubled relationship between the petitioner and his employer. The petitioner is accused of misconducting himself throughout his service tenure and his service graph clearly reflect so. The Management is not satisfied with his working and has accused him of serious charges of dereliction of duties insubordination, accusing the superiors, etc. The Management has proved the said charges by adducing cogent and sufficient evidence before the Enquiry Officer and on pre-ponderance of probabilities, have proved the said charges. The petitioner is not successful in rebutting the said charges. The Management on account of the rules, applicable to the employees for maintaining discipline on its premises do not intend to continue, an unruly

employee since they are apprehensive that this would result in an unrest in the administration of justice and ultimately affect the students since the institution, that is being run by the Management is an educational institution. Thus, the troubled and distraughted relationship between the petitioner and the Management is another ground which justify the order of termination. After levelling accusations against the petitioner and on the accusations being duly proved, the Management wants to draw a curtain on the episode and has taken the extreme step of terminating the services of the petitioner as their employee, after following due procedure of law.

The procedure adopted by the respondents after adhering to the principles of natural justice, has culminated in a final action of termination of his services and even the Tribunal who was approached in an Appeal, by the appellant has also recorded that the charge of disobedience, dereliction of duties and making false allegations against the superiors, indecent behaviour are proved before the Enquiring authority. The Tribunal has observed as under :-

“If due to such type of misconduct, the administration of the college is adversely affected, it will result into disturbance to the education of the students admitted in the college. In addition to this, by making false allegations in reference to the caste of the appellant, the appellant indirectly threatened his superior to involve him in criminal cases. This also amounts to gravest misconduct. For such gravest misconduct, major

punishment of termination is definitely justified in view of law settled by our High Court and Supreme Court in Anant Kamble Vs. Principal, M.L. Dahanukar College & Ors, 2007(3) BCR 929”

As a result of the aforesaid discussion and on close scrutiny of the report of the enquiry officer and the order passed by the School Tribunal, I am not inclined to entertain the writ petition which deserve a dismissal by upholding the impugned order of termination dated 18/7/2019 and by also upholding the judgment of the University and College Tribunal, Aurangabad dated 18/12/2020.

23 Writ Petition is therefore, dismissed.
 Rule discharged. Easy on costs.

SMT. BHARATI DANGRE, J