

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.3723 OF 2021

RUKMINIBAI BABURAO MOTEGAONKAR ... PETITIONER

VERSUS

THE ADDITIONAL COMMISSIONER AND OTHERS ... RESPONDENTS

...
Advocate for Petitioner : Mr. Nagarsoge Sahebrao A
AGP for Respondents/State: Mr. S. W. Munde
Advocate for Respondent Nos.2 & 3 Mr. P. D. Suryawanshi

...
CORAM : NITIN B. SURYAWANSHI, J.
DATE : 28th September, 2022

PER COURT :-

1. The petitioner is aggrieved by order of punishment imposed on him by respondent no.2, thereby stopping one increment permanently of petitioner and the appeal filed by petitioner challenging the said punishment order is also dismissed by respondent no.1
2. Admittedly, petitioner was serving on the post of Junior Assistant (Accounts) at Panchayat Samiti, Beed, where it is alleged that petitioner has committed irregularity in TA & DA bills. Some allegations of spending additional amounts beyond financial provision is also alleged against the petitioner. A show cause notice was therefore issued to the petitioner and after receipt of reply of petitioner, respondent no.2 has imposed punishment of stopping one increment of the petitioner with permanent effect.

3. The learned Advocate for the petitioner, by placing reliance on **Narendra s/o Motiram Bodkhe Vs. Additional Commissioner Nagpur & Ors.** reported in **2006 (5) Mh.L.J.**, has submitted that the said punishment falls in the category of major punishment and therefore, the said punishment could not have been imposed on the petitioner without holding departmental inquiry.

4. The learned Advocate for respondent nos.2 and 3 and the learned Assistant Government Pleader for respondent no.1 have supported the impugned orders.

5. In *Narendra s/o Motiram Bodkhe (Supra)*, by referring to Apex Court decision in *1990 Vol. 2 Current Labour Reports 686 (Kulwant Singh Gill vs. The State of Punjab)*, this Court has held:

"8. Considering the law laid down by the Apex Court, it is evident that in the instant case the punishment of withholding 2 increments permanently is admittedly the punishment which would fall in the category of major punishable and by necessary implication such punishment could not have been imposed by the Zilla Parishad without conducting appropriate departmental enquiry."

6. Petitioner's case is squarely covered by the above observations of the learned Division Bench.

7. In the facts of the present case, since serious allegations are levelled against petitioner and impugned punishment is imposed without holding departmental inquiry, the impugned punishment order cannot be sustained. Hence, the following order;

ORDER

(i) The writ petition is allowed.

(ii) The impugned punishment order dated 15-10-2012, passed by respondent no.2 and order dated 22-04-2013 passed by respondent no.1 in Appeal No.3/2013, so also the order dated 26-09-2018 passed in Review Petition No.47/2014, are hereby quashed and set aside.

8. It is made clear that respondent no.2 is at liberty to conduct departmental inquiry against the petitioner on the same cause of action.

[NITIN B. SURYAWANSHI, J.]

Sameer