

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

WRIT PETITION NO.8919 OF 2019

Ganesh Rekhanaik Rathod

..PETITIONER

VERSUS

The State of Maharashtra

..RESPONDENT

Mr. H.A. Joshi, Advocate for petitioner;
Mr. A.S. Shinde, A.G.P. for respondent

**CORAM : DIPANKAR DATTA, CJ.
AND
SMT. VIBHA KANKANWADI, J.**

DATE : NOVEMBER 15, 2022

PC :

1. Order dated 8.2.2019 passed by the Maharashtra Administrative Tribunal, Mumbai, Bench at Aurangabad, dismissing Original Application No.855 of 2017, filed by the petitioner, is under challenge in this writ petition.

2. Petitioner was charge-sheeted on 16.5.2013. He was asked to show cause why minor penalty shall not be imposed upon him for the separate six allegations of misconduct levelled therein. On 30.1.2015, another charge-sheet was issued on the same charges upon cancellation of the earlier charge-sheet on the ground that the petitioner ought to be proceeded against under rule 8 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 for major punishment. On 31.1.2015, the petitioner superannuated from

service. In this factual background, the petitioner urged before the Tribunal that disciplinary proceedings against him could not be continued against him after his superannuation. It was also urged that the disciplinary authority having once issued charge-sheet for imposition of minor penalty, could not have initiated major penalty proceedings against the petitioner.

3. The Tribunal considered the several decisions cited by the petitioner and distinguished the same by holding that in such cases, there were no statutory provisions to continue disciplinary proceedings against a retired employee. However, the Tribunal specifically referred to rule 27 of the Maharashtra Civil Services (Pension) Rules, 1982 and on the basis of its understanding thereof, recorded a finding that the disciplinary authority did have the power and jurisdiction to continue the proceedings initiated prior to the petitioner's superannuation under the Discipline and Appeal Rules as if it were a proceeding under the Pension Rules. In the process, the Tribunal relied upon the decision of the Supreme Court in **Delhi Development Authority vs. H.C. Khurana**, reported in **(1993) 3 SCC 196**. We may also, in this connection, refer to the decision of the Supreme Court in **State of West Bengal vs. Pronab Chakraborty**, reported in **(2015) 2 SCC 496**. There, the Court unambiguously held, upon consideration of similar provisions contained in the West Bengal Services

(Death-cum-Retirement) Rules, 1971, that a proceeding initiated while the employee was in service could indeed be continued under rule 10 of Death-cum-Retirement Benefit Rules.

4. There is no substance in the contention of the petitioner that disciplinary proceedings initiated under the Discipline and Appeal Rules cannot be continued beyond superannuation. Equally unsound is the contention that major penalty proceedings cannot be initiated once proceedings for imposition of minor penalty have been initiated.

5. We find no infirmity in the reasoning of the Tribunal while dismissing the original application. The writ petition is devoid of merit and, accordingly, stands dismissed. No costs.

6. We have been informed by the learned advocate for the petitioner that that the inquiry against him duly proceeded and has been concluded. The Inquiry Officer has found the petitioner guilty of some of the charges. The petitioner has also submitted his response to the inquiry report. If indeed that be so, we encourage the disciplinary authority of the petitioner to pass the final order and thereby conclude the disciplinary proceedings in accordance with law, as early as possible but

not later than four weeks from date of receipt of an authenticated copy of this order.

[SMT. VIBHA KANKANWADI, J.]

[CHIEF JUSTICE]

amj