

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12285 OF 2019

BABASAHEB KESHAVRAO SONWANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. S.S.Thombre
AGP for Respondents-State: Mrs. G.L. Deshpande
Advocate for Respondent No. 4: Mr. S.W. Munde

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 13th JULY, 2022

ORDER :

1. This petition filed under Article 226 and 227 of the Constitution of India, seeks following relief:

"B) By issuing writ of Certiorari or any other writ or order or directions in the like nature, the order passed by the Chief Executive Officer, Zilla Parishad, Aurangabad dated 24.04.2006, the order passed by the Additional Commissioner, Aurangabad dated 12.09.2008 and order passed by the respondent No. 2 dated 05.03.2019 may kindly be quashed and set aside."

2. The petitioner while serving as assistant teacher in Zilla Parishad Primary School at Natkarwadi was suspended on 08.11.2004 and a departmental inquiry was initiated against the

petitioner. Chargesheet was served on the petitioner levelling charge, that he has submitted bogus medical reimbursement proposal and tried to deceive Zilla Parishad and the petitioner has thereby committed violation of Rule 3 of Maharashtra Zilla Parishad District Services (Conduct) Rules, 1967.

3. After holding the inquiry, the inquiry officer submitted a report holding the petitioner guilty of both the charges. The Chief Executive Officer thereafter issued show cause notice to the petitioner and call his explanation as to why the petitioner should not be punished for said misconduct. The petitioner replied said show cause notice and by order dated 24.04.2006, the Chief Executive Officer brought the petitioner to basic pay scale with permanent effect.

4. The petitioner challenged the punishment order by filing appeal before the Additional Commissioner. The Commissioner modified the punishment order and imposed the punishment of stoppage of two yearly increments of the petitioner with permanent effect. The petitioner filed review application before the Commissioner which was dismissed and thereafter the petitioner approached the Hon'ble Minister by

filing revision, which is also dismissed. The petitioner is aggrieved by said orders.

5. Heard the learned advocate for the petitioner and learned advocate for respondent No. 4.

6. The learned advocate for the petitioner submits that in the inquiry the petitioner has examined doctor who had treated petitioner's mother, whose medical reimbursement was sought by the petitioner. There is no material on record to come to a conclusion that, in the inquiry charges levelled against the petitioners are proved, therefore, punishment imposed on the petitioner can not be sustained. He therefore, submits that the impugned orders of imposing punishment on the petitioner by Chief Executive Officer, Additional Commissioner and confirmed by the Hon'ble Minister are liable to be quashed and set aside.

7. The learned advocate for respondent No. 4, on the other hand, supports the impugned orders contending that during the course of inquiry sufficient material is brought on record to show that the petitioner has filed bogus documents to claim medical reimbursement. He therefore, submits that there

is no substance in the challenged raised by the petition and the petition is liable to be dismissed.

8. Having heard the learned advocate for the petitioner and learned advocate for respondent No. 4 at length and on perusal of record it is clear that, the charges levelled against the petitioner are proved during the course of inquiry. The inspection team visited the doctor's hospital who has allegedly treated petitioner's mother on 28.04.2004 to verify the bills submitted by the petitioner. On visit to the said doctor's hospital they sought indoor patient's register, case papers, reports and office copy of original bills issued to the petitioner. However, the doctor was not in a position to make available any of these documents. Only document made available by the doctor was receipt dated 30.10.2002 on his letter head and the doctor has categorically admitted that except that he has no other documents.

9. Though, the doctor is examined by the petitioner during the course of inquiry in the light of report of inspection committee, his evidence cannot be relied upon. There is sufficient material brought on record by the Zilla Parishad to prove charges against the petitioner.

10. The Additional Commissioner while partly allowing the appeal filed by the petitioner has come to a conclusion that the punishment imposed on the petitioner is harsh and disproportionate and therefore, he modified the punishment by stopping two yearly increments of the petitioner with permanent effect. Said order is confirmed in review and by the Hon'ble Minister in revision.

11. Taking into consideration the facts and record of the present case, the petitioner has failed to make out a case to warrant interference in the impugned orders passed by the authorities. As the charges against the petitioner are proved, the Additional Commissioner was justified in imposing punishment on the petitioner. It is not possible to agree with the contention of the petitioner that the charges levelled against him are not proved.

12. For the aforesaid reasons, no case is made out by the petitioner to warrant interference in the extra ordinary writ jurisdiction. The writ petition being devoid of merits, is dismissed.

[NITIN B. SURYAWANSHI, J.]