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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2314 OF 2019

Dadasaheb Baburao Swami ... Petitioner
Versus
The State of Maharashtra & Ors. ... Respondents

Mr. C. G. Gavnekar a/w Mr. Ashutosh Gavnekar for the Petitioner.
Mrs. S. S. Bhende, AGP for the State-Respondent Nos. 1 to 3.
Mr. Prashant Bhavake for the Respondent Nos. 4 and 5.

**CORAM: S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE : 22nd SEPTEMBER, 2022

P.C. :-

. The petitioner had approached the Deputy Director of Education, challenging the punishment imposed upon him. The petitioner also claim relief *qua* the change of date of birth and to change the date of initial appointment in the approval order.

2. The Deputy Director of Education considered only one prayer that of the minor punishment imposed upon the petitioner and rejected the same on the ground that it is barred by the petitioner.

3. Mr. Gavnekar, learned counsel for the petitioner strenuously contends that infact the starting point of limitation for filing appeal before the Deputy Director under the provisions of the MEPS Rules would be 8th August, 2017 i.e. the date on which the petitioner was communicated that the increment would be stopped from 1st July, 2017. The communication relied by the Deputy Director of Education dated 15th June, 2017 cannot be said to be the order of punishment.

According to the learned counsel, this distinction has not be properly considered by the Deputy Director of Education. The learned counsel further submits that other two reliefs claimed by the petitioner have been totally ignored by the Deputy Director of Education, no decision has been taken by him in that regard. There is no question of limitation for the said reliefs.

4. Mr. Bhavake, learned counsel for the respondent nos. 4 and 5 submits that on 15th June, 2017, communication was issued to the petitioner of the decision and the punishment imposed upon him of withholding one increment. The said communication is received by the petitioner on 16th June, 2017 and on receipt of the same, the petitioner made a representation on 17th June, 2017 thereby requesting that the punishment imposed is unreasonable and causes injustice to him. The same was not accepted.

5. Under communication dated 8th August, 2017, the petitioner was communicated that his representations, that the increment should not be stopped, is not accepted.

6. According to the learned counsel for respondents, the Deputy Director of Education could not have entertained the complaint with regard to the other two prayers. The application for change of date of birth has to be made within five years, the same has been made after five years and the same cannot be entertained after five years. So also, the grievance for change of date of appointment is made after ten years.

7. We have considered the submissions.

8. Rule 29 of the MEPS Rules prescribes that against imposition of

a minor penalty, the employee can prefer an appeal to the Deputy Director of Education of the region concerned within 45 days from the date of receipt of order of punishment.

9. Considering the factual matrix involved in the present case, the petitioner has received communication of the minor punishment of stoppage of increment imposed upon him on 16th June, 2017 and on 17th June, 2017 had made a representation to the Institution that the said punishment is unreasonable and causes injustice to him. As such, it cannot be said that for the first time the order of the punishment was received by the petitioner on 8th August, 2017.

10. With regard to the other two prayers of change of date of birth and the change of date of appointment is concerned, such a grievance can be raised before the Committee constituted under the Government Resolution dated 29th August, 2019 as amended vide corrigendum dated 1st October, 2019.

11. The petitioner may make an application to that effect before the Committee and the Committee shall take decision upon the application of the petitioner, making a grievance with regard to the change of date of birth and change of date of appointment, after hearing the Institution, on its own merits and in accordance with law.

12. The parties may put forth their respective stands before the Committee, which the Committee would consider on its own merits.

13. Writ Petition is disposed of. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]