

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3942 of 2010

Mukund s/o Nilkanthrao Fopse,
Aged about 46 years,
Resident of and at Post Mandhal-441 210,
Tq. Kuhi and District Nagpur.

..... **PETITIONER**

...V E R S U S...

1. The State of Maharashtra,
through Secretary, Rural Development
and Water Conservation Department,
Mantralaya, Mumbai-32.
2. Additional Commissioner,
Nagpur Division, Nagpur.
3. Chief Executive Officer,
Zilla Parishad, Nagpur.
4. Assistant Commissioner (Inquiry),
Inquiry Officer, Commissionerate,
Nagpur Division, Nagpur.

..... **RESPONDENTS**

Shri N.D.Khamborkar, Advocate for petitioner.
Shri N.R.Patil, Assistant Government Pleader for respondent nos. 1, 2 and 4.

CORAM :- A.S.CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.
DATE :- JULY 08, 2022

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

The petitioner who is serving as Junior College Lecturer with Zilla Parishad, Nagpur was departmentally proceeded against on various counts related to discharge of his duties. An enquiry was held against the petitioner on four charges. The Enquiry Officer held that the said four charges had been

duly proved. The Chief Executive Officer after accepting the conclusion recorded by the Enquiry Officer, imposed punishment of bringing the petitioner down on the basic pay-scale. The petitioner challenged that order by filing an appeal before the Divisional Commissioner. The Divisional Commissioner after considering the record was pleased to dismiss the said appeal. Being aggrieved the petitioner has challenged the said order.

2. Shri N.D.Khamborkar, learned counsel for the petitioner submitted that insofar as Charge No.1 was concerned, the same related to remaining absent without prior intimation and without making any application. For said conduct he was already penalised by treating such absence as being without pay. There was no reason to again punish the petitioner on that count. Despite the fact that the Divisional Commissioner held that the petitioner was already punished for Charge No.1, the order passed by the Chief Executive Officer had not been interfered with. He further submitted that another charge related to absence of the petitioner on 15.08.2001 at the Junior College. The petitioner had attended the Independence Day celebrations at the Gram Panchayat and hence there was no reason to hold the petitioner guilty. He therefore submitted that considering the long service rendered by the petitioner the imposition of penalty was harsh and interference was therefore called for.

3. Shri N.R.Patil, learned Assistant Government Pleader for the respondent nos. 1, 2 and 4 supported the order passed by the Divisional Commissioner. According to him, due opportunity was granted to the petitioner after which the punishment was imposed based on the conclusions recorded by the Enquiry Officer. Hence no interference was called for.

4. We have heard the learned counsel for the parties and we have perused the documents on record. The Enquiry Officer in the report has specifically observed that insofar as Charge No.2 was concerned, the same related to the petitioner's absence on 17.01.2001, 23.01.2001, 04.10.2001 and 05.10.2001. Despite that the petitioner subsequently signed the muster roll to create an impression that he was not absent. The Enquiry Officer has noted that against this charge, the petitioner did not cross-examine the Head Master who had deposed. It was thus held that the petitioner had admitted the said charge. We find that Charge Nos. 2, 3 and 4 have been held to be proved in absence of any defence raised by the petitioner. Thus, the three charges as proved are found sufficient to sustain the order of punishment as imposed.

5. It is true that insofar as Charge No.1 is concerned, the Divisional Commissioner has accepted that the petitioner was already penalised by treating his absence as being without pay. Insofar as Charge No.5 is

concerned, it has been held that the explanation furnished by the petitioner for his absence was not justifiable. We find that Charge Nos.2, 3 and 4 are sufficient to sustain the punishment imposed on the petitioner of bringing him down on the basic pay-scale. The enquiry has been conducted after following the due procedure and it is not the grievance of the petitioner that he was deprived of such opportunity. The Chief Executive Officer of the Zilla Parishad and thereafter the Divisional Commissioner have considered the entire record and have thereafter imposed the punishment on the petitioner. In absence of any illegality, we do not find any reason to interfere in the writ petition. The writ petition is therefore dismissed.

Rule stands discharged. No costs.

(URMILA JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)

Andurkar..