

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

WRIT PETITION NO. 4983 OF 2013

Digambar S/o Damduji Kale,
aged about 50 years, Occ. Nil,
R/o Plot No. 19, Ayodhya Nagar, Nagpur – 440024.

PETITIONER

.....VERSUS.....

1. The Union of India,
Throught is Secretary,
Ministry of Communications and Information Technology,
Department of Posts,
20, Ashoka Road (Sanchar Bhawan),
NEW DELHI – 110001.
2. The Principal Chief Postmaster General,
Maharashtra Circle, Department of Posts,
Govt. of India, Ministry of Communications and Information Technology,
Mumbai GPO, MUMBAI – 440001.
3. The Director – Postal Services,
Nagpur Region, Department of Posts,
Shankar Nagar, NAGPUR – 440010.
4. The Sr. Superintendent of Post Offices,
Nagpur City Division, Department of Posts,
Giripeth, NAGPUR – 440010.

RESPONDENTS

Shri Kaustubh Deogade, Advocate for the petitioner.
Shri S.A. Chaudhari, Advocate for the respondents.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI - PHALKE, JJ.

DATE : SEPTEMBER 20, 2022

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

The challenge raised in this Writ Petition is to the order dated
3/5/2013 passed by the Central Administrative Tribunal, Nagpur in

Original Application No. 2131/2007. By that order, the challenge raised by the petitioner to the imposition of punishment of compulsory retirement has not been accepted and that order has been confirmed.

2. The petitioner while serving as 'Postal Assistant' with the respondents was served with a chargesheet on 23/4/2003. As per the Articles of charge, three allegations were made therein. It was alleged that during the period from 30/5/2000 to 6/1/2001, the petitioner had prepared duplicate certificates pertaining to Smt. Mainabai Bhute, Smt. Kamal Bhute, Shri Shyamji Narayan Patel and Shri Narshi Narayan Patel and had signed the Indemnity Bonds as surety though he was not knowing the said persons. It was alleged that the petitioner was not working with the concerning branch at the relevant time. On the ground that the petitioner had failed to maintain absolute integrity and devotion to duties and had acted in a manner unbecoming of a Government servant thus violating the provisions of Rule 3(1)(i) to (iii) of the Central Civil Services (Conduct) Rules, 1964 (for short "the said Rules"), the petitioner was proceeded against. After conducting Departmental Enquiry, the enquiry report was submitted on 20/4/2005. The charges framed were held to be duly proved by the department. The Disciplinary Authority while considering the enquiry report passed an order of dismissal from service on 31/5/2005 after having accepted the enquiry

report. The Appeal preferred by the petitioner was dismissed on 2/3/2006 by the Director, Postal Services, Nagpur. The petitioner then preferred a Revision Application and the Principal Chief Post Master General affirmed the findings recorded by the Enquiry Officer. He however modified the order of punishment from dismissal from service to an order of compulsory retirement. The petitioner being aggrieved by the said order filed an Original Application before the Central Administrative Tribunal, Nagpur. The Tribunal after considering the entire material on record held that the decision of modifying the punishment from dismissal from service to compulsory retirement was reasonable and just. The same did not call for any interference. On that premise, the Original Application came to be rejected.

Being aggrieved, the petitioner has challenged the aforesaid order in the present Writ Petition.

3. Shri Kaustubh Deogade, learned Counsel for the petitioner reiterated the submissions that were raised before the Central Administrative Tribunal and submitted that the punishment of compulsory retirement was not warranted in the facts of the present case. The guilt of the petitioner could not said to have been proved on the basis of material before the Enquiry Officer. It could not be said that the

persons in whose favour the bonds had been prepared were not known. The department failed to examine the relevant witnesses who were the holders of the certificates. The petitioner was also not provided due opportunity to defend his case. In the absence of material evidence to bring home the charges, the Enquiry Officer erred in holding that all the charges have been proved. The Disciplinary Authority and thereafter the Appellate Authority were not justified in accepting the findings recorded by the Enquiry Officer. It was submitted that the petitioner having been acquitted in the criminal trial on the basis of similar charges, there was no reason to visit the petitioner with the punishment of compulsory retirement. The learned Counsel placed reliance on the decision in *L. Chandraiah Vs. State of A.P. & anr.* [2004 ALL MR (Cri) 224 (S.C.)] to urge that interference was warranted with the order passed by the Tribunal.

4. Shri S.A. Chaudhari, learned Counsel for the respondents supported the impugned order. According to him, due opportunity of defending the charges was given to the petitioner. After complying with the principles of natural justice, an order of punishment was passed. The order of dismissal from service was modified to an order of compulsory retirement. This modification was accepted by the department and therefore there was no reason to interfere with the impugned order.

5. We have heard the learned Counsel for the parties and we have perused the documents on record. On re-consideration of the material on record, we are satisfied that no case is made out to interfere in writ jurisdiction. The scope for interference in matters of such a nature where Departmental Enquiry has been held and the report of the Enquiry Officer has been examined by various Departmental Authorities and thereafter by the Central Administrative Tribunal. Interference would be permissible only if it is shown that there has been a breach of principles of natural justice while conducting the enquiry or that the findings recorded are perverse being based on no evidence on record. On perusing the report of the Enquiry Officer, we find that there is material on record to sustain the findings that the charges levelled were proved. The Departmental Authorities have re-considered the entire material on record. The Tribunal in paragraph 4 of the impugned order has recorded that it was not the case of the petitioner that he had not been granted sufficient opportunity to be heard by any Departmental Authority. Similar was the case of defending himself before the Enquiry Officer. It was then noted that the S.A.S. agents had not been examined as defence witness though the petitioner sought to rely upon their involvement. It has been noted that the original investors had not applied for any duplicate certificates nor had they signed the Indemnity Bonds. The said certificates had been discharged and the money had been paid in 1990 and 1992.

Despite that, bogus duplicate certificates were submitted and bogus Indemnity Bonds were prepared. Rule 3(1)(i) to (iii) of the said Rules relates to failure to maintain absolute integrity and devotion to duties and acting in a manner unbecoming of a Government servant. It has been proved that the petitioner's conduct was unbecoming of a Government servant.

6. In the light of the material on record, we are satisfied that the punishment of compulsory retirement has been imposed after following the prescribed procedure and after giving due opportunity to the petitioner. We are thus not inclined to interfere with the aforesaid adjudication. The Writ Petition is therefore dismissed. Rule stands discharged with no order as to costs.

(URMILA JOSHI - PHALKE, J.)

(A.S. CHANDURKAR, J.)

Sumit