

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

CIVIL APPLICATION (W) NO. 2512 OF 2022 IN
WRIT PETITION NO.5037 OF 2021

Satish Ganpatrao Dabhade

vs.

State of Maharashtra through its Secretary, Labour Department, and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Shyam Dewani, Advocate for applicant/petitioner.
Ms T. H. Khan, Assistant Government Pleader for non-applicant/respondent no.1.
Ms K. K. Pathak, Advocate for non-applicant /respondent nos. 2 and 3.

CORAM :- A.S.CHANDURKAR AND M. W. CHANDWANI, JJ.

DATE :- NOVEMBER 18, 2022

The applicant seeks recall of the order dated 19.10.2022 by urging that in the light of the provisions of Rule 27 (2)(b)(ii) of the Maharashtra Civil Services (Pension) Rules, 1982 charges pertaining to events that have occurred prior to four years of issuance of the charge-sheet cannot form subject matter of departmental proceedings and hence the charge-sheet as issued is liable to be quashed. It is submitted by the learned counsel for the applicant that the charge-sheet dated 28.10.2021 was served on the applicant on 01.11.2021 and therefore the events prior to 01.11.2017 could not have been the subject matter of the charge-sheet. It is submitted that Charge Nos. 1, 7, 12, 14 and 16 pertain to the period prior to the cut-off date and hence the respondents are prohibited under the aforesaid provisions to enquire into the same. Since the order under review does not correctly consider this aspect, there is an error apparent on the face of record. The aforesaid order thus deserves to be reviewed.

The prayer is opposed by the learned counsel for the non-applicant no.2. It is submitted that the charge-sheet is required to

be read as a whole. Most of the charges pertain to the period after the cut-off date. In some of the charges some events have occurred prior to the cut-off date but have continued thereafter. In paragraph 10 of the reply, it has been stated that except Charge No.12 which deals with the event prior to 01.11.2017 all other charges are required to be enquired into. Reliance is placed on the decision in *State of Maharashtra Vs. Keshav Ramchandra Pangare and anr. [2000 I CLR 24]* in that regard.

On hearing the learning counsel for the parties we do not find there is an error apparent on the face of record to invoke review jurisdiction. Perusal of various charges indicates reference to the period when the events in question have occurred. Though in some charges there is reference to the period prior to 01.11.2017, the respective charges would have to be read as a whole. The applicant can always raise appropriate defence in that regard.

However, in view of specific reply of the non-applicant no.2 in paragraph 10 that Charge No.12 pertains to an event prior to 01.11.2017, accepting that statement it is directed that the Enquiry Officer shall not go into Charge No.12. To that extent the order dated 19.10.2022 is clarified.

Subject to what is stated above, the civil application for review is rejected. No costs.

Prayer for deferment of the enquiry proceedings by the learned counsel for the applicant to enable him to challenge the order is opposed by the learned counsel for the non-applicant no.2.

In the facts of the case, it is directed that further proceedings of the enquiry be commenced on completion of a period of three weeks from today.

Writ Petition No.5037 of 2021

Stand over to 7th December, 2022.

(M. W. CHANDWANI, J.)

(A.S.CHANDURKAR, J.)

Andurkar..