

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 12411 OF 2022

Santosh s/o. Narayan Rajapure .. Petitioner
Age. 42 years, Occ. Service,
R/o. Behind Adarsha Nagar,
Near Suyog Park Open Space, Survey No.36,
Plot No.74, Nagar-Kalyan Road, Nalegaon,
Ahmednagar- 414 001.
Tq.Dist. Ahmednagar.

Versus

1. The Additional Divisional Commissioner, .. Respondents
Nashik Division, Nashik,
Tq. & Dist. Nashik.
2. The Chief Executive Officer,
Zilla Parishad, Ahmednagar,
Tq. & Dist. Ahmednagar.

Mr.D.A. Mane, Advocate for the petitioner.
Mr.S.B. Pulkundwar, AGP for the respondent/State.
Mr.V.V. Gujar, Advocate for respondent No.2.

CORAM : KISHORE C. SANT, J.
DATED : 07.07.2023

PC :-

01. The petitioner in this petition came to be dismissed by the learned Chief Executive Officer, Zilla Parishad, Ahmednagar, on the ground of unauthorized absence, since the petitioner remained absent from service for the period from 07.06.2016 till 18.01.2018. The second charge was about

inconvenience caused because of the absence of the petitioner. The third charge was of disobedience as the petitioner did not submit his explanation to show-cause notice issued by the superior. The petitioner's case is that he met with an accident on 06.06.2016 and therefore could not report to the duty. He produced on record several certificates issued by the Medical Officer and also by the Medical Board. However, as per submissions of the petitioner, same are not properly considered and his explanation in the inquiry was also not appreciated by the Authority and the punishment was inflicted upon him.

02. The petitioner, thereafter, filed an appeal to the Additional Divisional Commissioner, Nashik. The Additional Divisional Commissioner, Nashik, by way of the impugned judgment and order dated 31.05.2022 rejected the appeal and confirmed the order passed by the learned Chief Executive Officer. The petitioner fairly submits that his challenge is only to the extent of quantum of punishment which appears to be disproportionate.

03. On going through the record and after hearing the parties, this Court finds that the said absence cannot be said to be deliberate or voluntary absence, in view of the certificates produced by the petitioner on record. This

Court, therefore finds that it would be proper to remand the matter to the Chief Executive Officer i.e. respondent No.2 only on the point of considering quantum of punishment afresh. Respondent No.2 shall decide the quantum of punishment afresh within three months from today. It is expected of the Authority to consider the voluminous documents in the nature Medical Certificates and the explanation of the petitioner and to pass the order.

04. With this the writ petition stands disposed off. Needless to say that the impugned judgment and order dated 31.05.2022 is quashed and set aside to the extent of quantum of punishment. The learned Authority to take appropriate decision and communicate it to the petitioner. The learned Authority to consider the period from termination till its decision afresh.

[KISHORE C. SANT, J.]