

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11651 OF 2018

Prakash Eranna Narale

deceased through LHrs.

....Petitioners

V/S

The State of Maharashtra & Ors.

....Respondents

...

Mr. Balwant V. Salunkhe for the Petitioners.

Mr. A.P. Vanarse, AGP for Respondent Nos.1 and 2/State.

Mr. Anand S. Kulkarni for Respondent No.3.

...

CORAM : SANDEEP V. MARNE, J.
DATE : DECEMBER 08, 2023.

P.C.:

1 By this Petition filed by the deceased Petitioner Prakash Eranna Narale, order dated 10 April 2018 passed by Minister, Rural Development is under challenge. By that order the Minister, Rural Development has rejected the Revision Application and has upheld the order passed by the Chief Executive Officer, Zilla Parishad, Solapur on 23 March 2016 and the appellate order of the Additional Collector dated 5 June 2017. By order dated 23 March 2016 the Chief Executive Officer, after holding Petitioner guilty of misconduct alleged in the chargesheet dated 18 December 2012 imposed the penalty of temporary stoppage of two increments as well as stating the period of suspension as suspension.

2 I have heard Mr. Salunkhe, the learned Counsel appearing for the Petitioner, Mr. Kulkarni, the learned Counsel appearing for Respondent No.3-Zilla Parishad and Mr. Vanarse, the learned AGP appearing for the Respondent/State.

3 Petitioner was charged with the misconduct of display of behavior on account of assaulting a fellow teacher. In the second charge it was alleged that the Petitioner violated rule 3 of the Maharashtra Zilla Parishad Services (Conduct) Rules, 1967.

4 I have gone through the report of the Enquiry Officer. The Enquiry Officer has taken into consideration the deposition of lady teachers who deposed that Shri Dhasade, Shri Birajdar and Shri Karpatti assaulted the Petitioner when the Petitioner was injured. It has however come on record that the Petitioner was involved in the altercation with other teachers. It is on this count the Enquiry Officer proceeded to hold charge No.1 to be partly proved. Even charge no.2 has been held to be partly proved. It is on account of the finding recorded by the Enquiry Officer about partiality of both the charges that the Disciplinary Authority has proceeded to impose minor penalty temporary stoppage of two increments.

5 The learned Counsel appearing for the Petitioner would submit that the Respondent-Zilla Parishad did not initiate any action against the

other teachers who were also involved in altercation with the Petitioner. In my view, the same cannot be a ground for interfering in the order of penalty as right to infinity is a positive concept and cannot be enforced in a negative manner as sought to be suggested by them.

6 Considering the finding recorded in the enquiry, it cannot be stated that the same are perverse. The penalty imposed on the deceased Petitioner is also not very harsh. The Petitioner has continued in service and has unfortunately expired. His family would be entitle family pension. The penalty would also not have any impact on the pensionary benefits as the increments were stopped only temporarily and not with cumulative effect. I, therefore, do not find any reason to interfere in the orders impugned in the present Petition. The Writ Petition is accordingly disposed of.

(SANDEEP V. MARNE, J.)