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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2206 OF 2021

Sachin Kondiram Atole

..... Petitioner

Vs.

Principal Chief Security
Commissioner & Ors.

..... Respondents

Mr. Sushant S. Prabhune a/w. Ratan Upadhyay for the Petitioner
Mrs. Smita Thakur I/b. Mr. Suresh Kumar for the Respondents

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : MARCH 15, 2023

ORAL ORDER (PER : ACTING CHIEF JUSTICE)

1. Rule.

Rule is made returnable forthwith.

By consent of the parties, taken up for final disposal.

2. The Petitioner is employed with the Railway Protection Force as a Constable since 2008. A criminal case was registered against the Petitioner for the offences punishable under Section 304-B, 498-A and 306 read with Section 34 of the Indian Penal Code. He was taken in custody on 21st April 2019 and was released on bail on or about 7th May 2019. A departmental inquiry was conducted against the Petitioner on the following charges:

Shri Sachin Atole Constable RPF Thana Daund while working as constable at RPF Thana Daund has committed serious misconduct in that he was arrested by Baramati Rural Police vide Cr.No.361/2019 u/s.306, 304(B), 498(A) 34 IPC dated 21.04.2019 for death of his wife during treatment. Shri Sachin Atawale was arrested on the complaint of his father-in-law. He was released on bail by the Hon'ble Session Court Baramati on 07.05.2019. The matter is under investigation with Baramati Police station.

Thus he acted in a manner not befitting to the member of the disciplined Force. By this act of commission and omission tarnished the image of the disciplined Force. Thereby he failed to perform his duties with due promptitude and involved in criminal conspiracy which bring discredit to the reputation of the Force. The said act on the part of Shri Sachin Atole Constable RPF Thana Daund clearly establishes his serious misconduct and discreditable conduct. Thereby he violated rule No.146.2(i) 146.3(i) 146.4 147(i)(ii)(iii) of RPF Rule 1987."

3. The Petitioner was found guilty in the said departmental inquiry. Penalty of compulsory retirement is imposed on him. Appeal and Revision filed by the Petitioner are dismissed. Aggrieved thereby, the present Writ Petition.

4. We have heard the learned Counsel for the Petitioner. The learned Counsel submits that only on the basis of a criminal case filed against the Petitioner the departmental inquiry was conducted and the Petitioner is compulsorily retired. According to the learned Counsel, the reason for compulsorily retiring the Petitioner is not borne out from the evidence and the charge on record.

5. The learned Counsel for the Respondents submits that the father-in-law of the Petitioner deposed before the Inquiry Officer about the illegal acts committed by the Petitioner, such as demanding dowry and harassing the deceased wife of the Petitioner. This was considered by the Inquiry Officer so also the Disciplinary, Appellate and Revisional Authority. The Petitioner is guilty of serious misconduct. He was also arrested by the Police Authority and was behind the bars for more than 15 days. The Petitioner has acted in the manner not befitting to the member of a disciplined Force. By this act of commission and omission, he has tarnished the image of a disciplined Force and thereby failed to perform his duties with promptitude. He is involved in criminal conspiracy and caused disrespect to the reputation of the force. The decision has been rightly taken.

6. We have considered the submissions.

7. On perusal of the charge, it appears that the only charge is on the basis of a criminal case filed against the Petitioner. The Petitioner is not convicted in the criminal case. If the Petitioner would have been convicted, then the same would have been different matter altogether. The criminal case is still pending. The charge against the Petitioner was not that he abetted the crime and/or

harassed his wife. No such charge is framed. Only because a criminal case is registered, Respondent No.4 ought not to have imposed punishment upon the Petitioner.

8. Reliance placed by the learned Counsel for the Respondent on the judgment of Learned Single Judge of Madras High Court in the case of *S. Paramasivan Vs. Director General of Police and Ors. 2020 SCC OnLine Mad 27954* would not enure to the benefit of the Respondents. In the said case, the allegations were that the Petitioner therein had illicit intimacy with another married woman and for the further act of throttling his wife's neck. The wife in that case deposed before the Inquiry Committee. It is on the basis of the said evidence, action was taken.

9. In the present case, there was no charge against the Petitioner of abetting suicide of his wife and/or demanding dowry.

10. In light of the above, the impugned order compulsorily retiring the Petitioner from service is quashed and set aside.

11. Admittedly, the Petitioner has not worked during the intervening period. We are not inclined to grant him back wages. However, the Petitioner will be entitled to continuity in service.

12. The Respondents shall reinstate the Petitioner within four weeks from today.

13. Rule is accordingly made absolute. No costs.

14. The Writ Petition is disposed of.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)