



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No.2433 of 2020

ANIL S/O RAMAJI UIKEY

VS

**ADDITIONAL COMMISSIONER, NAGPUR DIVISION, NAGPUR 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 M.I. Vairagade, Advocate for the Petitioner/s
Shri Ujwal Phasate, AGP for the Respondent No.1/State
Ms Sweta Bhaisare, Adv. h/f Shri B.N. Jaipurkar, Advocate for the
respondent Nos.2 and 3.

CORAM : ANIL S. KILOR, J.

DATED : 26.10.2023

1. Heard.
2. In the present petition, the petitioner has raised a grievance against the order dated 27.06.2009 passed by the Additional Commissioner, Nagpur Division, Nagpur, rejecting the appeal preferred by the petitioner, challenging the order passed by the Chief Executive Officer (CEO), Zilla Parishad, Wardha dated 18.03.2016, imposing punishment of bringing the petitioner on his basic pay scale, after the charges levelled against the petitioner were found to be proved in the departmental inquiry.
3. The petitioner was working as 'Assistant Teacher' and while he was on duty in primary school at Bhivapur (Heti) on 01.07.2011, the petitioner was found under the influence of liquor. Therefore, the statement of allegation was served upon him and therefore, after issuance of charge sheet levelling two

charges, the inquiry was conducted. In the inquiry, the first charge was proved and the second charge was partially proved against the petitioner.

4. As far as the first charge that, the petitioner was found in drunken condition in the school is concerned, it has come on record that on 01.07.2011 the Chairman, Social Welfare, Block Block Education Officer, Extension Officer (Education), Panchayat Samiti Karanja (Ghadge) visited the school and they found the petitioner in drunken condition and in the inquiry, statements of 30 to 40 villagers and students were recorded and after finding that the charge No.1 was proved and charge No.2 was partially proved, i.e. in respect of the dereliction of duties, the CEO vide order dated 18.03.2016 imposed punishment under Rule (4) of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964 and thereby, brought the petitioner on basic pay-scale.

5. The petitioner feeling aggrieved by the same, challenged the said order in appeal before the Additional Commissioner, who has dismissed the appeal by holding that sufficient evidence was produced by the Zilla Parishad to establish the charge against the petitioner.

6. The learned counsel for the petitioner submits that though it is observed by the authorities below that the petitioner admitted the fact that he was in drunken condition, it is not correct. It is submitted that, in the explanation submitted on 25.07.2011, he denied such charge. It is therefore, submitted that in view of the fact that in absence of any medical evidence in

support of the charge, the punishment imposed upon the petitioner, is illegal and not sustainable in the eyes of law. For this purpose, he has placed reliance on the judgment of the Hon'ble Supreme Court of India, in the case of *Munna Lal v. Union of India*¹.

7. On the other hand, the learned AGP for the Additional Commissioner strongly opposed the petition and points out that there was sufficient evidence available on record that the petitioner was found in the drunken condition on 01.07.2011 while he was on duty.

8. It is submitted that, in the explanation submitted by the petitioner on 25.07.2011, he admitted the fact that on the day when the Chairman of Social Welfare and other Officers visited the school, he admitted the fact that he was in drunken condition, however, he states that he was ill and therefore, he admitted the said fact without understanding what the officers were saying.

9. Thus, when the Officers visited the school, the petitioner admitted the fact that he was in drunken condition. Moreover, the medical documents filed by the petitioner on record, more particularly, the documents at paper book (page 47), i.e. Discharge Summary dated 30.12.2012, shows in the column "history", there is a mention that the petitioner is Alcoholic since 15 years.

1 (2010) 15 SCC 399

10. The Judgment, on which the petitioner has placed reliance, is thus, distinguishable on facts and therefore, is of no help to the petitioner.

11. Thus, considering the evidence brought on record during the departmental inquiry, I am of the opinion that no error has been committed by the CEO while imposing the punishment of bringing the petitioner on basic pay-scale and further the Additional Commissioner, Nagpur has not committed any error in upholding the same. Accordingly, the writ petition is **dismissed**.

[ANIL S. KILOR, J.]