



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

WRIT PETITION NO. 291 of 2019

Deoras Tukaram Chavan,
Aged about 65 years, Occupation-Retired Junior Engineer,
Pannase Utkarsh Complex,
Flat No.108, 'B Wing' Ring Road,
Kotwal Nagar, Nagpur-440 015

..... **PETITIONER**

..V E R S U S..

1. The Chairman and Managing Director,
Maharashtra State Electricity Distribution
Company Limited (MSEDCL), 6th Floor,
'Prakashgad' Aliyavar Jung Marg,
Station Road, Bandra (East), Mumbai-51.
2. The Regional Director,
MSEDCL, Vidyut Bhavan, Katol Road,
Nagpur-440 013.
3. The Chief Engineer, Nagpur Zone,
MSEDCL, Vidyut Bhavan, Katol Road,
Nagpur-440 013.
4. The Superintending Engineer,
Nagpur Urban Circle, MSEDCL,
Prakash Bhavan, Link Road, Sadar,
Nagpur-440 001.

..... **RESPONDENTS**

Shri S. P Kshirsagar, Advocate for petitioner.
Shri D.M.Kale, Advocate for respondents.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.
DATE :- 12th OCTOBER 2023

JUDGMENT (Per A.S.CHANDURKAR, J.)

The challenge raised in this writ petition is to the order of
punishment dated 06.11.2006 imposed by the Disciplinary Authority at the

conclusion of the departmental enquiry held against the petitioner as modified by the Appellate Authority vide order dated 06.12.2007. The petitioner also seeks a direction to regularize the period of suspension from 07.10.2005 to 29.07.2011 as period spent on duty for all purposes.

2. The petitioner while serving as Junior Engineer with the Maharashtra State Electricity Distribution Company Limited - MSEDCL was placed on suspension on 10.10.2005 pursuant to registration of a First Information Report No.3241 of 2005 under various provisions of the Prevention of Corruption Act, 1988. In view of his arrest during course of investigation, he was placed under suspension. A departmental enquiry was also initiated against the petitioner and pursuant to the enquiry report, the Disciplinary Authority on 06.11.2006 imposed the penalty of treating the petitioner to be under suspension for the entire period of suspension from 07.10.2005 to 29.07.2011. On 11.07.2007 a notice was issued to the petitioner by the Chief Engineer being the Appellate Authority proposing to enhance the penalty imposed upon him by the Disciplinary Authority. It proposed to withhold annual increment of the petitioner for a period of two years with cumulative effect. The petitioner replied to the said notice on 23.07.2007 and by the order dated 06.12.2007 in exercise of powers under Clause 92 of the MSEDCL Employees Service Regulations, 2005 the punishment was enhanced by withholding his increment for a period of two

years with cumulative effect.

3. In the criminal trial, the petitioner came to be acquitted on 21.04.2014 vide judgment delivered in Special Case No.10 of 2007. That decision has attained finality. In these facts, the petitioner has filed the present writ petition on 19.11.2018 and has raised challenge to the orders dated 06.11.2006 and 06.12.2007 imposing penalty consequent upon the disciplinary proceedings held against him.

4. Having heard the learned counsel for the parties and having perused the documents on record including the decisions in *Om Prakash Gupta vs. State of U. P. [AIR 1955 SC 600]*, *P. P. Kapur vs. Union of India and another [AIR 1964 SC 787]*, *Brahma Chandra Gupta vs. Union of India [AIR 1984 SC 380]*, *V. P. Gindroniya vs. State of M. P. and another [AIR 1970 SC 1494]*, *Ajay Kumar Choudhary vs. Union of India through its Secretary and another [(2015) 7 SCC 29]* *Vijay Kumar Agarwal vs. Union of India and another [(2015) 17 SCC 625]*, and *Civil Appeal No. 3339 of 2019* (arising out of S.L.P.(Civil) No. 100 of 2016) *Raj Narain vs. Union of India* that were relied upon by the learned counsel for the petitioner, we find that the writ petition suffers from unexplained delay and laches and hence the challenge as raised does not warrant consideration on merits. The petitioner was under suspension for the period from 07.10.2005 to 29.07.2011. The petitioner suffered the punishment imposed upon him initially on

06.11.2006 by treating the petitioner to be under suspension for the entire period of suspension and thereafter the punishment as enhanced by the Appellate Authority on 06.12.2007. There is no explanation whatsoever furnished by the petitioner for not raising a challenge to these orders for a period of more than almost ten years. Even if it is considered that the petitioner was acquitted in the criminal proceedings on 21.04.2014, we do not find that the said aspect would assist the petitioner in getting over the undue delay in challenging the orders of penalty. The order passed in the disciplinary proceedings is after holding a full-fledged enquiry and the conclusion thereof was not on account of the petitioner's criminal prosecution. Evidence was led on the charges framed and on the basis of preponderance of probabilities the punishment was inflicted. The petitioner appears to have made certain representations in the meanwhile. We do not find that making of such representations would have the effect of preventing the running of time for raising challenge to the orders passed by the Disciplinary Authority.

5. On this count, the claim of the petitioner is not examined on merits. The writ petition is dismissed on the ground of unexplained delay and laches. Rule stands discharged with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.