



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14754 OF 2023

Shaikh Ismail Shaikh Abdul

VERSUS

State Of Maharashtra Through
Its Secretary And Others

...

Mr. Y. H. Jadhav, Advocate for the Petitioner

Mr. S. K. Tambe, AGP for Respondent No. 1

Mr. L. V. Sangit, Advocate for Respondent Nos. 2 and 3

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CORAM : RAVINDRA V. GHUGE &
R. M. JOSHI, JJ

DATE : APRIL 23, 2024

PER COURT :

1. We have perused the original file placed before us by the Municipal Corporation. The learned Advocate Shri. Sangit had assisted us. There is no dispute that prior to the retirement of the Petitioner, one more charge-sheet is issued to him, dated 20.10.2021. The charges set out in the said charge-sheet are identical to the charges set out in the earlier charge-sheet with reference to which enquiry report dated 29.10.2016, has been filed and the Petitioner has been exonerated.

2. In view of the above, it is apparent that the same charges have been repeated in the second charge-sheet. The Enquiry Officer has exonerated the

Petitioner in the first enquiry. First charge-sheet contains charges, identical to the charges set out in the first enquiry. The employer could have disagreed with the findings of the Enquiry Officer and could have relied upon the law laid down by this Court in Writ Petition No. 224/2024 (*Rajendra Baburao Patil vs. The State of Maharashtra and Others*) and could have assigned reasons for issuing a show cause notice to the Petitioner as to why he should not be held guilty of the charges leveled upon him. This legal exercise has not been performed.

3. In view of the above, **this Writ Petition is partly allowed**. The second enquiry along with the same charge-sheet is quashed and set aside.

4. In so far as the demand of the Petitioner that he should be granted promotional benefits with effect from 2007 on wards, we conclude that if he is held eligible, due to passage of time, he would not be entitled for the actual monetary benefits. The Petitioner shall be entitled for all retiral and pensionary benefits, as the same have still not been paid with interest component as is statutorily

provided. Such payment shall be made within 90 (ninety) days from today. Since regular pension is being paid, the learned Advocate for the Petitioner submits that no orders are required on that aspect.

(R. M. JOSHI, J)
Malani

(RAVINDRA V. GHUGE, J)