



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

11 WRIT PETITION NO. 13189 OF 2023

DATTU NAMDEO GADHE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

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Advocate for the Petitioner : Mr. Khedkar Avinash S.

AGP for Respondent/s-State : Mrs. M. L. Sangit.

Advocate for Respondent No.3 : Mr. Aghav Avinash D.

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CORAM : S. G. MEHARE, J.

DATE : 08.01.2024

PER COURT :-

1. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. The petitioner was charged for serious misconduct of misbehaving with the Management and employees under the influence of liquor, remaining absent without leave and causing the educational loss of the students and also indecent behaviour with the male and female students. The charges were framed. The petitioner had faced the inquiry. In an inquiry, he was hold guilty for the charges framed against him. The Chief Executive Officer, Zilla Parishad, Ahmednagar imposed the penalty under Rule 4(iv) of The Maharashtra Zilla

Parishads District Services (Discipline and Appeal) Rules and reduced him to the lower service grade.

3. Learned counsel for the petitioner would vehemently argue that ground No.4 was not in the charges. It was a new invented ground. Therefore, holding an inquiry on that ground without the charges is illegal. He also argued that there was no evidence to believe that the petitioner under the influence of liquor misbehaved with the staff and the Management. None of the charge have been specifically proved. But, under the surmises, the charges were believed to be proved and the penalty is also illegally imposed without specifying the period for which he has been reduced to be lower grade. He relied on the judgment of this Court in *Writ Petition No. 10685 of 2022, Janka Ananda Devkar Vs. The State of Maharashtra through its Secretary and others, dated 14.10.2022.*

4. Per contra, the learned counsel for the Chief Executive Officer would submit that the charges were proved. The petitioner failed to prove the charges. The evidence has been correctly appreciated. The principle of natural justice i.e. granting an opportunity of being heard was followed. The charges were serious. Considering the charges, proportionate

penalty has been imposed. He prayed to dismiss the writ petition.

5. Perused the impugned orders. Even if it is considered that charge No.4 was not served upon the petitioner, there is nothing on record to believe that the petitioner was innocent. After having gone through the impugned orders, this Court is satisfied that the charges levelled against the petitioner were serious and proved as inquired under the Departmental Inquiries. The law is well settled that the strict proof is not required to prove the charges under the Departmental Inquiries. However, it is trite that the penalty of rejection of a lower service or grade cannot operate for an indefinite period. The impugned order is defective on that point. It is necessary for the disciplinary authority to indicate the period during which the penalty would operate. In the case at hand, the Chief Executive Officer did not indicate as to whether the penalty is with cumulative effect or not. The way in which the penalty is imposed is apparently illegal and against the provisions of the law. Normally, in such a situation, the Court is expected to remit the matter to the disciplinary authority for imposing the correct penalty. However, it has been submitted that four years remained for the superannuation of the petitioner. In these

circumstances, instead of remitting the matter only for the purpose of imposing the correct penalty, the Court is of the view that an appropriate penalty may be imposed. Considering the nature of the charges proved against the petitioner and the period of his superannuation, the Court is of the opinion that the penalty imposed on the petitioner is correct. However, it is modified that it shall be operational for the period of five years from the date of penalty and thereafter, the pay of the petitioner would stand restored.

6. With this direction, the writ petition stands disposed of.

7. No order as to costs.

(S. G. MEHARE, J.)

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vmk/-