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70-WP-727-2019

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

70 WRIT PETITION NO. 727 OF 2019

Suresh Shamrao Wadekar

VERSUS

The Chief Executive Officer Through Animal Husbandary Dept Zp Osmanabad
And Anr

...

Mr. Suresh N.Rodge, Advocate for the Petitioner.

Mr. Ajinkya S. Reddy For Respondent No.1.

CORAM : KISHORE C. SANT, J.

DATE : 2nd DECEMBER 2024

PC :-

1. Heard the learned Advocate for the parties.
2. This petition is against the order dated 28th February 2017 passed by the Additional Commissioner, Aurangabad in Case No.DB/appeal/cell/188/2015. The learned Additional Commissioner partly allowed the appeal of the petitioner in granting the period for which the petitioner was absent without leave. However, confirmed the order passed by the Chief Executive Officer so far as stopping two increments permanently.
3. The facts in short are that, the petitioner who was working in Zilla Parishad, Osmanabad as a Dresser. He was absent from 21st October 2014 till 13th May 2015 without leave. Before that, he was absent from 4th June 2014

till 1st October 2014. However, latter on he filed an application that since his wife was not well, his leave period be sanctioned. He also prayed for salary and other allowances for that period. However, it was observed that the wife of the petitioner was not well for the period of January - February 2014. Second contention of the petitioner was that, he was not allowed by his Superior Officer to join the duty and for that period he always used to visit the Zilla Parishad office with request for direction to the Superior Officer to allow him to join.

4. For the above charges, the inquiry was held. In the inquiry, charges were taken to have been proved. The say of the petitioner was not accepted. After conclusion of the inquiry, the learned Chief Executive Officer issued a notice as to why no action be taken as proposed. The learned C.E.O. by communication dated 19th June 2015 considered the explanation and imposed the punishment. The period from 4th June 2014 till 1st October 2014 was taken as a period of absence without leave and the said period shall not be treated as period spent on duty for any purposes. He further directed to stop two increments with permanent effect. He confirmed the order dated 1st July 2015 by again calling explanation. This order was challenged before the Learned Commissioner. The learned Additional Commissioner passed the order as

stated above.

5. The learned Advocate for the petitioner vehemently argued that both the authorities have failed to appreciate that there was sufficient explanation offered by the petitioner. It is the superior officer of the petitioner who did not allow the petitioner to join the duties from June 2015. The authorities also failed to consider that the wife of the petitioner was not well and it is not the fault of the petitioner. It is submitted that now the petitioner has retired on attaining age of superannuation. He thus submits that both the orders deserve to be quashed and set aside by allowing the petition.

6. This Court has gone through the orders passed by the authorities. This Court does not find any perversity in the orders. On the contrary, the learned Additional Commissioner has taken a lenient view and has set aside the part of the order of learned Chief Executive Officer of treating the absence as unauthorised absence and directed to consider that period as leave period. No further leniency can be shown to the petitioner. No ground is made out to call interference with the order of the learned Commissioner.

7. In view of the same, this writ petition stands dismissed with no order as to costs.

[KISHORE C. SANT, J.]

Ethape