

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

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WRIT PETITION NO.13190 OF 2018

Sachin Rangnath Tathe

.. Petitioner

Vs.

The Hon'ble High Court of Bombay at Mumbai

Thr. Its Disciplinary Committee & Anr.

.. Respondents

...

Mr. Anil S. Kamble a/w Mr. Jeevan Hiwrale, Mr. B.S. Shetty i/by Mr. Hemant Surve for the Petitioner.

Mr. P. S. Dani, Senior Advocate a/w Ms. Leena Patil for Respondent No.1-High Court.

Ms. Reena A. Salunkhe for Respondent No.2-State.

...

**CORAM : A.S. CHANDURKAR &
JITENDRA JAIN, JJ**

DATE : 16th FEBRUARY 2024.

PC. :

1. In the light of the order dated 12/04/2023, the writ petition has been taken up for final disposal and the learned counsel for the parties having heard at length.

2. The petitioner came to be appointed the post of Judicial Magistrate First Class and Civil Judge, Junior Division on 16/07/2001. During the course of his service when he was posted at Usmanabad he was subjected to departmental proceedings. In all four enquiries were held against the petitioner being SID/VM/66/2011, SID/VM/30/2011, SID/VM/249/2009, and SID/VM/112 and 139/2011. At the conclusion of these enquiries, the

Enquiry Officer- the learned Principal District and Sessions Judge, Usmanabad submitted his report and held the charges levelled against the petitioner to be duly proved except two charges.

3. The petitioner was thereafter issued a show cause notices dated 12/02/2013 and 19/08/2016 in the light of the decision taken by the Disciplinary Committee to impose a penalty of dismissal from service as prescribed by Rule 5 (1) (vii) to (ix) of the Maharashtra Civil Services (Discipline and Appeal) Rule, 1979. After considering the replies of the petitioner and granting him an opportunity of hearing, the Disciplinary Committee recommended imposition of major penalty of dismissal on the petitioner. On the recommendation made by the Disciplinary Committee, the Government of Maharashtra through its Law and Judiciary Department on 04/04/2018 issued an order of penalty which was dismissal from service under Rule 5 (1) (ix) of the Rules of 1979. Being aggrieved by the aforesaid punishment, the petitioner has challenged the same in the present writ petition.

4. We have heard Mr. Anil S. Kamble, learned counsel for the petitioner and Mr. P. S. Dani, learned Senior Advocate for the first respondent as well as Ms. R. A. Salunkhe learned Assistant Government Pleader for the second respondent. We have also perused the written

submissions filed on behalf of the petitioner and the first respondent. Having considered the entire documentary material on record in the light of the law laid down in the decisions referred to by the learned counsel we do not find any case made out to interfere in writ jurisdiction.

5. According to the petitioner, the conclusions recorded by the Enquiry Officer on the basis of the evidence recorded in the enquiry proceedings is unsustainable. It is urged that the material on record before the Enquiry Officer was not sufficient to hold that the charges levelled had been dully proved. Assuming that such material was liable to be considered, the punishment of dismissal from service was highly disproportionate to the alleged misconduct.

In this regard, it may be stated that while examining a challenge to an action taken pursuant to a departmental enquiry, this Court under Article 226 of the Constitution of India cannot sit in appeal over the findings recorded by the Enquiry Officer. The sufficiency/insufficiency of the evidence recorded cannot be gone into as an Appellate Court. It is to be noted that various witnesses were examined by the Presenting Officer to bring home the charges levelled against the petitioner. The petitioner having cross-examined the witnesses examined by the Presenting Officer, we find that it cannot be said that the present is a case of no evidence or that perverse findings have been recorded by the

Enquiry Officer on the basis of such evidence. On the yardstick of preponderance of probability, the conclusion recorded by the Enquiry Officer is liable to be sustained. It is not the case of the petitioner that during the course of enquiry, he was unable to cross-examine any witnesses or that he was deprived of the opportunity of bringing on record his version. We therefore do not find that the conclusion recorded by the Enquiry Officer in these facts deserves to be interfered.

6. The record indicates that four separate enquiries were required to be initiated against the petitioner and the charges pertain to the manner of conduct of the petitioner while serving as a Judicial Officer. In this backdrop the charges framed are definitely serious in nature considering the fact that the petitioner was a Judicial Officer. Perusal of all the four enquiry reports and the conclusions recorded therein are found sufficient to be a reason not to interfere with the conclusion recorded by the Enquiry Officer and the punishment imposed upon the petitioner. The learned counsel for the petitioner sought to rely upon the decisions in *Yoginath D. Bagade Vs. State of Maharashtra & Anr.*, decided on 16 September 1999 and *Jagdish Singh Vs. Punjab Engineering College and Ors.*, CA No. 3565 of 2009, in support of his contentions but in the facts of the present case we do not find that the enquiry as conducted suffers from any procedural irregularity resulting in any prejudice caused to the petitioner. The order

of punishment dated 04/04/2018 has been issued after grant of full opportunity to the petitioner and it does not result in miscarriage of justice. Having also examined the entire material on record in the light of the ratio of the decisions in *Union of India V/s. H. C. Goel*, AIR 1964 Supreme Court 364, *B. C. Chaturvedi V/s Union of India and others* (1965) 6 SCC 749, *High Court of Judicature at Bombay through its Registrar V/s. Shirishkumar Rangrao Patil and another*, (1997) 6 SCC 339, *High Court of Judicature at Bombay through its Registrar V/s. Shashikant S. Patil and another*, (2000) 1 SCC 416 and *R. R. Parekh V/s. High Court of Gujarat and another*, (2016) 14 SCC 1, relied upon by the learned Senior Advocate for the first respondent we do not find any case made out to interfere in exercise of writ jurisdiction.

7. For aforesaid reasons, the writ petition stands dismissed with no order as to costs.

[JITENDRA JAIN, J]

[A.S. CHANDURKAR, J.]