



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5176 OF 2022

AJINATH DAGDU GALGATE

VERSUS

THE UNION OF INDIA AND OTHERS

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Advocate for the Petitioner : Mr. Kulkarni Sudhir V.
Advocate for Respondent Nos.1 to 4 : Mr. Golegaonkar M. A.

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CORAM : S. G. MEHARE, AND
SHAILESH P. BRAHME, JJ.

DATE : 13.02.2025

PER COURT :-

1. Heard the respective learned counsels.
2. The petitioner who was the Constable in CRPF was on leave for 15 days did not turn up to his job though the repeated letters were issued to him. During the leave, he was charged with an offence under Section 420 of the IPC. He was arrested in that case and was sent to PCR by the Criminal Court. The record reveals that from time and again, the petitioner was called by the Office to join and report but he did not respond. On the contrary, he was assigning the reasons that he is not well. Since the offence registered against the

petitioner was serious, the departmental inquiry was initiated against him. Though the record reveals that the petitioner was served with the charge sheet, he contends that he did not know about the charge sheet and no charge was served upon him. However, this contention is contrary to the facts. The record further reveals that since the petitioner failed to respond to the charges, the Authority proceeded ex-parte. After the inquiry was completed, the concerned Officer again served upon him the notice calling him to submit his representation. However, the petitioner repeated the same history. The Chief Judicial Magistrate, Kolhapur acquitted him on 20.07.2019. Thereafter, the petitioner woke up. He preferred the appeal. The appeal was dismissed. Then, he preferred the revision that was also dismissed.

3. Learned counsel for the petitioner would submit that since the departmental inquiry was ex-parte, he could not explain. Be that as it may, he was acquitted by the Criminal Court. He deserves quashing of the charges levelled against him in the departmental inquiry and for reinstatement. He placed on record the case of *Tulsi Dass S/o Suraj Prakash Vs. Union of India and others ; 2017(3) Mh.L.J. 929* and *Sachin*

***Kumar S/o Vedpal Singh Vs. The Union of India and others,
Writ Petition No.123 of 2022 decided on 01.03.2022.***

4. Per contra, learned counsel for the respondent vehemently argued that the petitioner never explained delay. He has no satisfactory explanation for his absence. Respondent was issuing him letter from time to time. He was also sent to the Pune Office for recording his statement. He went there and it was found that he was indulged in the Corruption for the recruitment in the department. Time and again, the notices were issued to him. Charge sheet was also served upon him. However, he did not face the departmental inquiry and allow to proceed it ex-parte. His acts were deliberate and with intention to dodge the departmental inquiry. The procedure required for punishment has also been correctly followed and considering the nature of duties which the integrity has the basis to maintain the confidence in the public at large, his services were terminated. Even after his acquittal, he did not prefer the appeal immediately. Again, he spend around one and half year. Since his explanation for delay was not satisfactory, the Appellate Authority has correctly dismissed the appeal on limitation ground. Since there was no substance in

the petition, the revision is also dismissed.

5. A small question that arises before this Court to determine is whether the acquittal of the petitioner by the Criminal Court would entitle him to get the departmental inquiry ineffective and reinstatement.

6. The case laws relied upon by the petitioner are not relevant to the question raised here. Those are on different facts. Hence, those would not assist the petitioner. The law is well settled that for criminal trial and departmental inquiry the rule of appreciating evidence are distinct. The prosecution has to establish the case beyond the reasonable doubt. The charges may be believed or proved in the departmental inquiry on the preponderance of probability. Here in the case, integrity of the petitioner was under doubt. In the case of ***Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. & Anr ; 1999 (3) SCC 679***, the law has been settled that the person who faced the criminal trial, if acquitted would not claim the frustration of the departmental inquiry and reinstatement. Law is also well settled that since the criminal case has no concern with the departmental inquiry, the departmental inquiry can also be

conducted during the pendency of the criminal trial. The judgment of the criminal Court would not bind the department initiating the inquiry and it has no effect on the departmental inquiry. Considering the settled law, we are of the opinion that the petitioner cannot ask for setting aside the departmental inquiry and punishment imposed upon him only on the basis that he has been acquitted by the criminal Court. The findings recorded by the concerned Authorities reveal that time and again the petitioner was called upon to appear and report on duties but he put forth the reason of his ill health without any document. After having gone through the record we are satisfied that the Authorities have followed the principle of natural justice, but it is the petitioner who did not avail the opportunity to face the departmental inquiry. In such situation, the department cannot be blamed. The petitioner kept waiting till the criminal Court passes the order. *Prima facie* the appeal was barred by limitation. We did not find any satisfactory explanation to condone the delay. The length of the delay is not the criteria to condone the delay. The reason restraining such person from approaching the Court is to be considered. However, there was absolutely no explanation that he was

restrained by circumstances from approaching the Court in time. Therefore, we do agree with the finding of the Appellate Court that the appeal itself was barred by limitation.

7. So far as the punishment is concerned, considering the nature of duties, his conduct and involving in the corruption of recruitment in the department, we are satisfied that the punishment imposed upon the petitioner is proportionate to the acts/charges proved against him. We do not find any illegalities in the departmental inquiry proceeding. Hence, the writ petition deserves to be dismissed.

8. For the above reasons, the writ petition stands dismissed.

9. No order as to costs.

(SHAILESH P. BRAHME, J.)

(S. G. MEHARE, J.)

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