



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6761 of 2019

Dilip Vaijnath Thorat,
Age : 43 years, Occ. Nil,
r/o. Thoratwadi, Beed

..Petitioner

Vs.

1. The State of Maharashtra
2. The Inspector General of Police,
State of Maharashtra, Mumbai
3. The Special Inspector General
of Police, Aurangabad Division,
Aurangabad
4. The Superintendent of Police,
Beed

..Respondents

Mr.D.R.Irale Patil, Advocate for petitioner
Mr.S.K.Tambe, AGP for respondents

**CORAM : R.G.AVACHAT AND
NEERAJ P. DHOTE, JJ.**
DATE : JUNE 17, 2025

ORDER :-

Heard learned counsel for the petitioner and learned AGP for the respondents - State, at length. We have perused the papers on record.

2. The petitioner, who was in the service of Police Department of State of Maharashtra, at the relevant time, i.e. 11.11.2003, was

working as a Police Constable and was attached to the Police Headquarters, at Beed. The petitioner along with two other police constables were deputed to take two prisoners to the Government Hospital, for medical examination. When the petitioner and his colleagues had taken the prisoners to the Government Hospital, both the prisoners escaped from their custody. One of the colleagues of the petitioner lodged a report in that regard with Beed City Police Station and crime came to be registered for the offence punishable under Section 224 read with Section 34 of Indian Penal Code.

3. A departmental enquiry was initiated against the petitioner with the charge that he facilitated the prisoners to escape from his custody. The charge was served on the petitioner. An Enquiry Officer was appointed. Enquiry was conducted. The Enquiry Officer submitted his report to the disciplinary authority. The disciplinary Authority served the copy of enquiry report on the petitioner along with the show-cause notice. The petitioner had responded the show-cause notice. The disciplinary authority passed the order of dismissal from service against the petitioner, by order dated 31.01.2005.

4. The petitioner filed an appeal against the order of dismissal of the petitioner from service, before the appellate authority. The appellate authority considered the appeal and dismissed the same on 30.04.2005. Thereafter, the petitioner filed a Revision before the competent authority, which came to be dismissed on 10.10.2025. Thereafter, the petitioner approached learned Maharashtra Administrative Tribunal by filing Original Application No.648 of 2006, which came to be dismissed by judgment and order dated 11.12.2014. Eventually, the petitioner approached this Court, challenging the order passed by learned Tribunal.

5. It is submitted by learned counsel for the petitioner that the disciplinary authority and the appellate authority did not consider the material available before them and reached to the incorrect finding. He further submits that the punishment from dismissal from services is disproportionate to the proved charge. He submits that the charge did not warrant highest punishment. He submits that the punishment may be reduced to lesser punishment of compulsory retirement. In support of his contentions, he relied on the following judgments:-

(i) Bombay High Court judgment in the case of Udaynath Tirkey s/o. Kisun Tirkey Vs. The Director General, Central Industrial Security Force (Writ Petition No.6859 of 2019 decided on 14.01.2022);

(ii) Judgment of Allahabad High Court in the case of Harish Chandra Tewari Vs. The State of U.P., decided on 15.12.2003;

(iii) Bhagat Ram Vs. State of Himachal Pradesh and ors., (1983)2 SCC 442

6. The petition is opposed by learned AGP for the respondents - State. He submits that all the authorities have considered the matter and reached to its proper conclusion. He submits that the principles of natural justice were followed and the punishment of dismissal from service is based on the proved misconduct. He submits that the scope to interfere in the departmental enquiry matter is very limited. He submits that the petition may be dismissed. In support of his contentions, he relies on the the judgment in the case of **Union of India and ors. Vs. Subrata Nath, 2022 LiveLaw (SC) 998.**

7. After hearing both sides and perusal of the papers on record, it is clear that there is no violation of the principles of natural justice in the departmental enquiry. Even, it is not the case of learned counsel for the petitioner that there was breach of principles

of natural justice in the matter. During course of the departmental enquiry, the charge was served on the petitioner. The Presenting Officer had examined the witnesses and the Enquiry Officer prepared his report on the basis of the material placed before him, which included the evidence of the witnesses. One of the witnesses, as seen from the material available on record, was the Doctor from the Government Hospital, wherein the two prisoners were taken for medical check up. Learned Tribunal considered all the aspects of the matter. It would not out of place to reproduce the relevant observations from the impugned judgment passed by learned Tribunal. The same are from paragraphs 5, 6 and 7, which read thus:-

“5. We find that statement of DR. R.H.Giri is at page-57 of the paper book. He is the doctor who had examined the prisoners in the hospital. The applicants have objected to the fact that the doctor remembered their names, buckle numbers or the names of the prisoners. In fact, it is not expected a doctor should remember the names of all persons who are examined by him. He must only rely on the records maintained by him. We do not accept the contention of the applicants that the fact the remembered their names would vitiate his testimony. He had clearly stated that at the time of examination, the prisoners were not in prison uniform but wearing ordinary clothes. This fact is important as the prisoners escapes

were facilitated by the fact that they were wearing ordinary clothes. There is nothing on record to suggest that Dr. Giri did not maintain and rely on his records to recall names of prisoners and their escorts. Similarly, we find that the applicants had cross-examined all the witnesses as is evident from the report of Enquiry Officer. To claim that the witnesses were not examined in their presence is not correct. The witnesses had affirmed the statements given by them in the preliminary enquiry were correct, during the course of D.E. The applicants have not mentioned which documents were not supplied to them. The applicants have claimed that they were not heard before the order dated 31.1.2005 was passed. This claim of the applicants is false as the order dated 31.1.2005 clearly mentions that the applicants were given show cause notice on 17.11.2004 and were given opportunity of personal hearing on 29.1.2005. After considering the report of the Enquiry Officer, and the fact that all the charges were proved against the applicant, punishment of dismissal from service was imposed by order dated 31.1.2005. We do not find the claim of the applicants that the order is perverse as it is based on no evidence to be correct. In fact, the Enquiry Officer has given an exhaustive report and held that all the charges were proved. Respondent no.4 accepted the report of the Enquiry Officer and after giving opportunity to the applicants, passed the impugned order.

6. The appellate authority has passed the order in appeal dated 30.4.2005 after considering all the material on record and after giving opportunity for personal hearing. The respondent

no.2 in the Revision Application called the applicants for personal hearing and passed the order dated 10.10.2005.

7. We do not find this to be a fit case which will warrant interference by this Tribunal. As has been held by Hon'ble Supreme Court in B.C. Chaturvedi Vs. Union of India (1995)6 SCC 749. that no judicial interference is warranted in disciplinary cases, where the order is based on some evidence, proper procedure has been followed and the authority who has imposed punishment is competent to do so. In the present case, we find that there was evidence against the applicants, proper procedure was followed and respondent no.4 is the competent authority who can impose punishment of dismissal. The quantum of punishment is not disproportionate considering the nature of charges against the applicants. “

8. We have gone through the authorities cited by learned counsel for the petitioner. On going through the same, it is clear and on which there is no dispute, that the factual matrix of those cases were entirely different than the factual aspects of the present matter. In the case of **Bhagat Ram** (supra), it has been observed that the punishment should be proportionate to the gravity of the misconduct. There cannot be any dispute on the said legal proposition. It is settled position of law that the punishment in the departmental enquiry should be proportionate to the proved

misconduct. The decision in the said cases were based on the factual matrix of those cases. In the judgment relied on by learned AGP, the principles in respect of the departmental enquiry and interference therein are discussed.

9. In the case at hand, admittedly, the petitioner was serving as a Police Constable and was deputed to take the prisoners to the Government Medical Hospital for medical check up. The material on record goes to show that the prisoners were allowed to change their clothes and have meals. The petitioner too took meals. Payment was made by the relative of the prisoners. The charge of facilitating the prisoners to escape from the custody of the police constables was proved. There is nothing to show that the findings recorded by the Enquiry Officer or the disciplinary authority were perverse. Learned Tribunal has rightly appreciated the material before it and rightly observed that no interference was called for in the punishment. With the proved misconduct, we find no merit in the submission of learned counsel for the petitioner that the punishment of dismissal from service was disproportionate to the proved misconduct. Being a police official, it was the duty of the petitioner to see that the prisoners do not escape from his custody. Needless to state that the police officials are deputed to take the

prisoners from jail to the Court or hospital; and to see that they are brought back to the jail. We do not see that the punishment of dismissal from service imposed against the petitioner by the competent authority, is disproportionate to the proved misconduct of the petitioner. Considering the settled principles in respect of the matters related to departmental enquiry, we find no merit in the case. Hence, we proceed to pass the following order:-

The Writ Petition is dismissed.

[NEERAJ P. DHOTE, J.]

[R.G. AVACHAT, J.]

KBP