IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5730 OF 2022

Sharad Dagdu Munde ....Petitioner

VERSUS

The State of Maharashra & others .....Respondents

Mr. U. R. Awate, Advocate for the Petitioner.
Mr. V. M. Chate, AGP for the State.
Ms. V. H. Sangole, Advocate for Respondent No. 3.

CORAM : R. M. JOSHI, J.
DATE : 23rd SEPTEMBER, 2025.

PER COURT :

1. By consent of both sides, heard finally at the stage of admission.

2. This Petition takes exception to the order passed by the Chief Executive Officer, Zilla Parishad, Beed of withholding three annual increments of the Petitioner permanently.

3. At the outset, learned counsel for the Respondent raised objection with regard to the maintainability of the Petition on the ground that as per Rule 15 of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964, revision is

maintainable against the order passed by the Divisional Commissioner.

4. Learned counsel for Petitioner had drawn attention of the Court to the proviso to the said rule which indicates that in case of punishment under Clauses (i) to (iii) and Clause (viii) of Rule 4, no such revision application is maintainable.

5. Admittedly, in this case, punishment imposed upon the Petitioner is of withholding of three annual increments permanently. The said punishment is covered by Clause (ii) of Rule 4. As such, no revision would be maintainable against the order impugned. Hence, this Petition is held to be maintainable.

6. Petitioner is a retired Head Master. A show cause notice came to be issued against the Petitioner on 07.03.2018 calling upon him to explain as to why action should not be taken against him under the concerned disciplinary rules. He responded to the said show cause notice. An enquiry was conducted against the Petitioner. The outcome of the said enquiry was that Charge Nos. 1 and 2 were held to be proved however, insofar as Charge No. 3 is concerned, it is

held that there is no mis-appropriation of funds however, there are irregularities in the financial transactions. Similarly, Charge No. 4 was held to be proved in view of proof of Charge No. 3. Pursuant to the report of enquiry, show cause notice was issued to the Petitioner on 04.07.2019 as to why three annual increments should not be withheld permanently and why the amount should not be recovered from him. The response to the said show cause notice was not accepted by the Chief Executive Officer, Zilla Parishad, Beed and, by passing order dated 18.09.2019, three increments of the Petitioner were withheld permanently. Before the Additional Commissioner, Aurangabad, appeal came to be filed under Rules 13 and 14 of the Rules of 1964. Appellate authority rejected the appeal essentially on the ground that the Petitioner has not given explanation with regard to the expenditure incurred and having regard to the nature of charges proved, the order passed by the Chief Executive Officer, Zilla Parishad, Beed was not interfered with.

7. Learned counsel for Petitioner submits that admittedly none of the charges except Charge No. 3 that too to a limited extent of irregularities is said to have been proved against the Petitioner. It is his contention that having regard to the length of service of Petitioner

and also in view of fact that Petitioner had clear past record, punishment imposed of withholding three increments permanently is disproportionate to the charges proved. In order to support his submission that said order of punishment deserves interference, reference is made to the judgment of the Coordinate Bench of this Court in case of *Zilla Parishad, Wardha vs. Subhash Tukaramji Buche*, **2020 SCC OnLine Bom 167**.

8. Learned counsel for Zilla Parishad supported the impugned order. According to her, the charges levelled against the Petitioner are serious in nature. It is sought to be contended that the amount to the tune of Rs. 3,00,000/- is said to have been mis-appropriated.

9. Though it is now argued on behalf of the Zilla Parishad that the offence is serious in nature, however, report of enquiry indicates that no mis-appropriation was found to have been done in the entire transaction. On the basis of evidence on record, though it was found that irregularities are committed, question arises before this Court as to whether the punishment of withholding of three

increments permanently would be punishment disproportionate to the charges.

10. It is settled position of law that while imposing punishment the employer is not only required to take into consideration the nature and the gravity of the charges but also the other mitigating circumstances such as past record of the employee. Here in this case, the impugned order does not indicate that past record of the Petitioner was taken into consideration while imposing punishment. Similarly, the Chief Executive Officer, Zilla Parishad, Beed, seems to have been impressed by the fact of allegations made against the Petitioner rather than the findings of the Enquiry Committee. Once it is held by the Enquiry Committee that it is not a case of mis-appropriation but irregularity, the said aspect ought to have been taken into account.

11. Having regard to the length of service of the Petitioner and his past record, imposition of penalty of withholding three increments permanently is shockingly disproportionate to the charges proved against the Petitioner.

12. It is pertinent to note that though show cause notice was issued for recovery of amount, infact, nothing is sought to be recovered from the Petitioner. This also indicates that the Petitioner is not benefited by any irregularity. Having regard to the facts of the case and also in view of the fact that Petitioner is already retired from service, instead of relegating the matter back to the Chief Executive Officer for decision afresh, this Court finds it appropriate to reduce the punishment from withholding three increments permanently to withholding one increment permanently.

13. Petition is allowed in aforesaid terms :-

(i) Impugned order passed by Chief Executive Officer, Zilla Parishad, Beed, stands modified.

(ii) Petitioner is punished with withholding of one increment permanently.

(iii) In case the order impugned is already implemented, Petitioner shall be entitled to receive monetary benefits of setting aside order to the extent of withholding of two increments of Petitioner.

(R. M. JOSHI)
Judge

dyb