



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

8 WRIT PETITION NO. 4445 OF 2019

ANIL MAHARU SHINDE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

Mr. Tarekmobin Shaikh h/f Mr. S. N. Deshmukh , Advocate for the
Petitioner

Mrs. M. L. Sangit, AGP for the Respondent/State

Mr. N. N. Desale, Advocate for Respondent No.2.

CORAM : R. M. JOSHI, J.

DATE : 29th SEPTEMBER, 2025

P.C. :-

1. By consent of both sides, heard finally at the stage of admission.
2. This Petition takes exception to the order dated 08/02/2018 passed by the Additional Commissioner, Nashik Division, Nashik in Zilla Parishad Appeal No. 76/2017 confirming the order dated 04/05/2017 passed by the Chief Executive Officer, Zilla Parishad, Dhule, whereby the Petitioner was punished by bringing him down to the basic pay scale permanently.
3. It is a case of the Petitioner that he was serving as a Gramsevak of Zilla Parishad, Dhule. It is alleged by the Petitioner that on 12/11/2000, the charge-sheet came to be issued against him by making false allegations and he was suspended from service. He was,

however, reinstated in service on 05/01/2001 but no inquiry was conducted in respect of the charge-sheet issued to him. The inquiry commenced only after about 15 years and without the charges being proved it is held by the Inquiry Committee that the 9 out of 10 charges of misconduct alleged against the Petitioner are proved. It is further case of the Petitioner that on the basis of the such findings of the inquiry, he was punished and the punishment is not sustainable in view of the fact that no charge could be said to have been proved against him. Being aggrieved by the said order, he preferred Appeal unsuccessfully, hence, this Petition.

4. Learned Counsel for the Petitioner at the outset submits that it was not open for the Zilla Parishad to conduct inquiry after the lapse of 15 years of time to support his suggestion that no such inquiry could be permitted. He relied upon the the judgment of Hon'ble Supreme Court in case of *UCO Bank and Others Versus Rajendra Shankar Shukla*¹, *P. V. Mahadevan Versus MD. T.N. Housing Board*² and *State of Madhya Pradesh Versus Bani Singh and Another*³. It is his submission by referring to the report of inquiry that though four witnesses were cited by the department, only one witness Mr. D. D. Patil was examined. It is his submission that the Inquiry Officer has committed error in holding charge No.1 of alleged misappropriation on the ground that the

1 (2018) 14 SCC 92

2 (2005) 6 SCC 636

3 199) (Supp) SCC 738

Petitioner Employee has failed to prove his innocence. With regard to the other charges sought to be argued that unless evidence was led by the department, onus does not get shifted upon the employee to substantiate his defence. It is informed to this Court that the employee is now deceased. However, since the punishment imposed affects the pensionary benefits, the said order is impugned.

5. Learned Counsel for the Zilla Parishad supported the impugned order. According to him, the correspondence on record indicates that for substantial time requests were made for conducting inquiry and therefore, the Zilla Parishad cannot be blamed for non conduct of the inquiry for a period of about 15 years. It is his further submission that there are admission given by the employee in his reply and hence, findings recorded by the Inquiry Officer to that effect cannot be faulted with. In so far as the charges said to have been proved in the inquiry, it is his submission that most of the charges are proved on the basis of the documentary evidence and as such examination of any witness was not necessary. It is his submission that considering the documentary evidence on record, it was for the employee to explain the circumstances which were against him. All these amongst other submissions, Petition is sought to be dismissed.

6. There cannot be any dispute with regard to the fact that the employee was issued with charge-sheet on 13/11/2000. He was also

suspended from service. Further admittedly he was reinstated in service in the year 2001. Now question arises as to whether there could be any justification for non conduct of the inquiry for long a period of 15 years. The answer thereto must be in negative. Firstly, the employee cannot be held to be responsible for administrative lapses from the part of the Zilla Parishad in failure to conduct the inquiry for period over 15 years. Even if accepted that some correspondents were made with the inquiry authorities, this can not become a justification for non conduct of the inquiry for such a long period. The lapse of period of over 15 years has certainly caused prejudice to the employee as he could not be expected defend himself appropriately in the inquiry after gap of over a decade after occurrence of alleged incidents.

7. Apart from this, perusal of the record clearly indicates that only one witness was examined i.e. D. D. Patil, then Deputy Sarpanch, Grampanchayat Vishvanath, Tq. Dhule. It is pertinent to note that the Inquiry Officer has held that the employee has committed misappropriation of the amount recovered by way of taxes from the people. In this regard, however, no evidence is led in the inquiry. Inquiry Officer concluded that since the employee has not led any evidence to dislodge the said charge, the same is held to be proved. This is wholly impressible in law. The initial burden is always on the department to lead evidence to substantiate the charge may be on

preponderance of probabilities. In case the evidence is led, the onus would shift upon the employee to support his defence. The inquiry report itself indicates that there was no evidence with regard to the commission of any act of misappropriation. Thus, the major charge of misappropriation has not been proved at all.

8. As far as other charges which are not serious in nature are concerned, though it is sought to be argued that on the basis of the documents on record the charges could be said to be proved. However, in order to prove the said documents, some witness ought to have been examined by the department who would depose in the inquiry about the correctness/relevance of documents in question. Only after the documents are held to be proved, it would become necessary for the employee to rebut the same. Perusal of the report of inquiry indicates that that all the charges are said to have been proved as the employee has failed to substantiate his defence. The report of the Inquiry Officer therefore is not consistent with the point of law settled by now.

9. Not only for the reason the inquiry was initiated after about 15 years and there would no justification at all for not conducting the inquiry in reasonable time, but also in view of the fact that the Zilla Parishad has failed to lead any evidence to prove the charges against employee, report and findings of the Inquiry Officer therefore cannot sustain.

10. Now the employee is deceased and therefore, there is no question of conducting any fresh inquiry into the charges against him. This Court therefore, finds this to be not a case wherein Zilla Parishad could now substantiate the charges against the employee. Consequently, Petition deserves to be allowed. The impugned orders therefore are set aside.

11. The LR's of Petitioner are entitled for the monetary benefits following from setting aside of the orders impugned.

12. Record is handed over to the learned Counsel for Zilla Parishad.

13. Petition stands allowed in above terms.

(R. M. JOSHI, J.)

ssp