



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1752 OF 2025

Shrimant S/o Ramdas Maske
Age : 46 years, Occupation : Service,
Flat No. 3, Pandurang Residency,
Vakratund Appt., Canal Road,
Shahu Nagar, Beed, District Beed

.. Petitioner

Versus

1] The Registrar General,
High Court of Judicature at Bombay,
At Mumbai

2] The Principal District and Sessions
Judge, Beed

.. Respondents

...
Advocate for the petitioner : Mr. Hemant Surve
Advocate for respondents no. 1 and 2 : Mr. R.J. Godbole
...

**CORAM : MANGESH S. PATIL &
Y. G. KHOBRADE, JJ.**

DATE : 20 MARCH 2025

ORDER (MANGESH S. PATIL, J.) :

Heard the learned advocate for the petitioner as also the
learned advocate Mr. Godbole.

2. Rule. It is made returnable forthwith. At the joint request
of the parties, the matter is heard finally at the stage of admission.

3. By invoking the powers of this Court under Article 226 of
the Constitution of India, the petitioner who has been serving on the
establishment of the Principal District and Sessions Judge, Beed, is

challenging the decision of respondent no. 2, who is the Principal District and Sessions Judge, Beed and the disciplinary authority, holding him guilty in the departmental enquiry no. 2 of 2016 and imposing punishment under Rule 5(1)(iv) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (**MCS Rules, 1979**) of reversion from the post of Stenographer (Lower Grade) to the post of Junior Clerk.

4. Learned advocate Mr. Surve for the petitioner would take us through the career of the petitioner, to demonstrate as to how he had entered into the judicial service in the clerical cadre in the year 2004, was transferred from Small Causes Court, Mumbai to the establishment of District and Sessions Court, Beed and was posted at Majalgaon in the year 2007 and could get selected and posted as Stenographer (Lower Grade) in the year 2011. He would also point out that due to reduction in the strength, the petitioner was sent on deputation as Steno-Typist and was ultimately reverted to the post of Clerk in the year 2012. He would also point out that subsequently, he was again selected as Stenographer (Lower Grade) once the vacancies were created in the year 2015. He would submit that within a span of 2-1/2 months of his such posting as a Stenographer (Lower Grade), the Presiding Judge of the Court forwarded an adverse report on the ground that he was professionally incompetent.

5. The learned advocate would submit that when the petitioner was asked to appear for shorthand and typing examination pursuant to such adverse report, he approached this Court in writ petition no. 11509 of 2015 when his request for deferring his examination was turned down. He submits that ignoring the fact that the petitioner had approached this Court and could not appear at the examination, the disciplinary enquiry was set up against him which ultimately resulted in holding him guilty and the imposition of the penalty.

6. Learned advocate Mr. Surve would submit that once having been selected as a Stenographer (Lower Grade), the very direction calling upon him to appear for proficiency test was illegal. When the petitioner was resorting to a legitimate and legal remedy of filing the writ petition, no departmental enquiry on the ground of alleged indiscipline could have been initiated. The enquiry officer, the disciplinary authority and even the appellate authority did not appreciate this fact in the correct perspective.

7. Mr. Surve would then submit that when the enquiry officer, the witnesses and the disciplinary authority are all judicial officers, his request for participation in the enquiry, by engaging an advocate ought to have been accepted. For failure to do so, would go to the root of sustainability of the departmental enquiry. The punishment inflicted is

grossly dis-proportionate and accepting the inherent limitations of this Court to cause inference by invoking the powers under Article 226 of the Constitution of India, propriety demands that the petitioner is exonerated for all the afore-mentioned reasons or could be met with a less severe punishment.

8. Per contra, Mr. Godbole would submit that this Court, in exercise of powers under Article 226 of the Constitution of India, should not undertake a threadbare scrutiny of all the facts and circumstances. Administrative appeal preferred by the petitioner has been dismissed and this Court should be concerned only in examining whether there is breach of the principles of natural justice or any other procedural lacunae going to the root of the disciplinary enquiry. In a given case, this Court can step in when the punishment is grossly disproportionate. He submits that nothing of the sort being the case, the petition be dismissed.

9. We have considered the rival submissions and perused the papers.

10. To repeat, obviously, in exercise of the powers under Article 226 of the Constitution of India, we shall be concerned as to whether there is any procedural impropriety in conducting the disciplinary enquiry and can examine proportionality of the punishment.

11. As regards the charge is concerned, there is concurrent observation and conclusion of the enquiry officer as confirmed by the learned Principal District and Sessions Judge, who is the disciplinary authority and the observations of the appellate authority which dismissed the petitioner's appeal.

12. Since it is a matter of proficiency in shorthand and typing, the evidence is writ large and sufficient to substantiate the conclusion about the petitioner being incompetent and having defied the direction to appear at the proficiency examination.

13. As regards the individual charges attributed against the petitioner are concerned, the first charge is regarding proficiency. The evidence is writ large to demonstrate that he was not having the requisite proficiency which was resulting in delay in the matter of administration of justice.

14. When the petitioner was called upon for counselling and had appeared before the learned District Judge, as is stated by the learned District Judge in his testimony, the petitioner was in a denial mode and was rather attributing the learned Judge under whom he was working at the relevant time with allegations of deliberate harassment. He was bold enough to even attribute the learned Judge of dictating the orders by looking at the laptop, pertinently his language and tenor before the learned District Judge was also found to be objectionable

which stands duly corroborated by the testimony of the learned District Judge concerned.

15. As regards the third charge, in order to extend an opportunity and to establish his proficiency, when the petitioner was called upon to appear at the shorthand and typing test, he did not appear. We do not see any reason to draw some additional inference merely because he had filed a writ petition raising objection for having been called for the test. However, admittedly, the writ petition was subsequently withdrawn. The fact remains that even an opportunity was extended to him to establish his proficiency, he lost it rather defied the directions and did not appear for the test and no fault can be found in holding him guilty therefor on third charge.

16. As regards the next charge, about having similarly found by another Judge, to be in-proficient, having committed number of mistakes, even that charge, may be a duplication, stands duly established by the testimony of the learned Judge. Similar is the case in respect of third judicial officer regarding which a similar charge was framed as charge no. 5.

17. The sixth charge is regarding loss of his shorthand note book while working under the learned 6th Joint Civil Judge Junior Division, Beed, it was expressly attributed that in spite of direction by

the learned Judge, he did not undertake any effort for tracing out the diary. One need not overemphasize the importance of the shorthand note book maintained by a court stenographer.

18. There is nothing to attribute motive to any of the presiding officers who had testified against the petitioner's behaviour and lack of proficiency. We, therefore, find no reason to interfere in the conclusion arrived at by the Enquiry Officer and substantiated by the learned disciplinary authority and sustained in the administrative appeal.

19. As far as proportionality is concerned, we do not consider that the punishment of reversion to the lower post, is grossly disproportionate to the gravity of the charges.

20. As regards the procedural aspect is concerned, the submission of the learned advocate for the petitioner that the petitioner had sought permission to be represented by an advocate having been turned down by the enquiry officer, according to sub-rule 8(a) of rule 8 of MCS Rules, 1979, it is only if the department is represented by an advocate, that an employee has a right to request for a similar assistance. Admittedly, the department was not represented by any advocate as a presenting officer. Therefore, there is no legal substance in the submission of Mr. Surve in this regard.

21. Merely because the witnesses are all judicial officers, in our considered view, cannot be a reason to circumvent the mandate of sub-rule 8(a) of rule 8.

22. There is no merit in the petition and it is liable to be dismissed.

23. The petition is dismissed.

24. Rule is discharged.

[Y. G. KHOBRADE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/