



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.642 OF 2024

STATE OF MAHARASHTRA, THROUGH ITS CHIEF SECRETARY, TRIBAL
DEVELOPMENT DEPT., MUMBAI AND OTHERS
VS
PAVAN S/O PRADEEPRAO MOTEWAR

*Office Notes, Office Memoranda of Coram,
Appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Ms M.H. Deshmukh, AGP for the petitioner/State

CORAM : ANIL S. KILOR AND RAJNISH R. VYAS, JJ.

DATE : 03.12.2025

1. Heard.

2. A dismissal of the respondent after enquiry on the ground that he sent certain objectionable messages to one *Siddhi Mohta*, while working as Male Superintendent, Antargaon Government Ashram School, Pandharkawada PO, is the subject matter of challenge in this petition.

3. The complainant-*Siddhi Mohta*, at the relevant time, was working as a CSR and Knowledge Partnership Consultant QUEST, Tribal Development Department. The respondent admitted that he sent messages of 'Good Morning' to the complainant. However, after finding that the timing of the said messages were of early morning i.e. 3.00 am, it is held that the charges of misconduct, levelled against the respondent, were proved and

accordingly, the action of dismissal was taken against the respondent.

4. The said dismissal order dated 01.07.2020 was the subject matter of challenge before the Maharashtra Administrative Tribunal (Tribunal) in the Original Application No. 164 of 2021.

5. The learned Tribunal, after considering the charges and also the admission given by the respondent that he sent such messages of 'Good Morning' to one *Siddhi Mohta*, has found that the punishment of dismissal is shockingly disproportionate. Accordingly, set aside the order of dismissal against the respondent.

6. The learned Tribunal, while setting aside the order of dismissal, has recorded its findings in paragraph Nos.10 and 11, which read as follows:

*"10. Hon'ble Supreme Court in the case of **B.C.Chaturvedi Vs. Union of India and Ors.** has held in para no. 5 as under:-*

"5. No doubt, while exercising power under Article 226 of the Constitution, the High Courts have to bear in mind the restraints inherent in exercising power of judicial review. It is because of this that substitution of High Court's view regarding appropriate punishment is not permissible. But for this constraint, I would have thought that the law makers do desire application of Judicial mind to the question of even proportionality of punishment/penalty. I have said so because the Industrial Disputes Act, 1947 was

amended to insert section 11A in it to confer this power even on a Labour Court/Industrial Tribunal. It may be that this power was conferred on these adjudicating authorities because of the prevalence of unfair labour practice or victimisation by the management. Even so, the power under section 11A is available to be exercised, even if there be no victimisation or taking recourse to unfair labour practice. In this background, I do not think if we would be justified in giving much weight to the decision of the employer on the question of appropriate punishment in service matters relating to Government employees or employees of the public corporations. I have said so because if need for maintenance of office discipline be the reason of our adopting a strict attitude qua the public servants, discipline has to be maintained in the industrial sector also. The availability of appeal etc. to public servants does not make a real difference, as the appellate/revisional authority is known to have taken a different view on the question of sentence only rarely. I would, therefore, think that but for the self-imposed limitation while exercising power under Article 226 of the Constitution, there is no inherent reason to disallow application of judicial mind to the question of proportionately of punishment/penalty. But then, while seized with this question as a writ court interference is permissible only when the punishment/penalty is shockingly disproportionate."

The applicant had only sent message of 'Good Morning'. It is not an objectionable message and only on that ground the applicant was dismissed from service. The punishment is shockingly disproportionate and, therefore, punishment of dismissal is liable to be quashed and set aside.

11. From the perusal of copy of Chargesheet and Enquiry Report it appears that there is nothing to show what was objectionable messages sent by the applicant. Hence, the punishment imposed by the respondent no. 3 is illegal and improper. ..."

7. After considering the above referred findings, we are of the opinion that the learned Tribunal has not committed

any error in setting aside the order of dismissal.

8. However, having concluded that the punishment was disproportionate, the learned Tribunal ought to have granted liberty to the petitioners to reconsider it.

9. Since such liberty was not granted to the petitioners, to that extent, we are intending to modify the impugned order. Accordingly, we pass the following order:

(i) The Writ Petition is **partly allowed**.

(ii) The order dated 25.01.2025 passed by the Maharashtra Administrative Tribunal, Nagpur Bench, Nagpur in Original Application No.164 of 2021 is upheld.

(iii) Liberty is granted to the petitioners to reconsider the punishment in light of the findings recorded by the learned Tribunal, if the petitioners so desire.

10. Accordingly, the petition is **disposed of**. No order as to costs.

(RAJNISH R. VYAS, J.)

(ANIL S. KILOR, J.)