



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

WRIT PETITION No. 5140/2024

PETITIONER : Zilla Parishad, Washim,
through its Chief Executive Officer, Kata
Road, Washim 444 505

Vs.

RESPONDENT : Jamil Ahmad S/o Noor Ahmad,
Aged 60 years, occ. Nil,
Address : R/o Akkalkot, Bhoipura, Old
City, Akola

Mr. P.A. Jibhkate, Advocate for Petitioner
Mr. P.A. Kadu, Advocate for Respondent

CORAM: SACHIN S. DESHMUKH, J.

DATED : 18th AUGUST, 2025

JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.
2. The employee, who, rendered the services from 1984, was charged with absenteeism, as such, notice was served. The notice was responded by the employee assigning circumstances, reasons of absenteeism. Preceded by same the order of suspension was issued along with the statement of charge of absenteeism, disobedience and failure to offer an explanation. While submitting an explanation, the charge of disobedience was refuted by the

employee. So far as absenteeism is concerned, the request was made to grant earned leave. However, the same is not considered and charge of absenteeism is levelled. The employee has further submitted that the show cause notice was never ever served upon the employee, as such, could not offer an explanation. With the aforesaid explanation, the employee has requested to condone the said Act. The disciplinary authority while misreading the explanation offered by employee has imposed the penalty of dismissal of service. The major penalty is to be imposed in accordance with the procedure regulated by Rule 6 of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964 (For short, Rules of 1964), which mandates that no order imposing the major penalties shall be passed except after an enquiry is held in a manner indicated in the said Rules.

3. Aggrieved by the order of dismissal, the employee initially approached to the Labour Court, however, the said complaint came to be dismissed. Thereafter, the employee approached the Industrial Court by presenting revision with an assertion that the petitioner has indulged into unfair labour practice as contemplated under Section 28 read with Schedule 6, Item I of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (For short, Act of 1971).

4. The Industrial Court after considering the breach with the mandate of Rules 6 of Act of 1964, unequivocally obligates that no order imposing major penalty shall be passed except after enquiry held in the manner prescribed by Rules. Which shall essentially includes framing of definite charge on the basis of the allegations on which enquiry is conducted. The statement of allegations shall be communicated in writing to the delinquent, who shall submit the statement of defence. After receipt of the statement of defence from the delinquent, further enquiry is to be undertaken by the disciplinary authority or appointing Enquiry Officer in that regard. However, surprisingly, the authority misreading the statement of defence has not conducted the enquiry as mandated by Rule 6 of the Rules of 1964. This aspect of breach of Rule 6 has been taken into account by the Industrial Court while allowing the complaint, directing to pay full back-wages to the employee from the date of dismissal, till the date of superannuation by allowing the complaint.

5. Aggrieved by the same, the present petition is presented by Zilla Parishad. It is the contention of the counsel for the petitioner that the employee has admitted the charge, as such, the further enquiry was not warranted, therefore, the Zilla Parishad is justified in dismissing the services of the petitioner on the ground of absenteeism. As such, submitted that the Industrial Court has erred

in allowing the complaint by directing the payment of full back-wages from the date of dismissal till the age of superannuation.

6. Per contra, Mr. P.A. Kadu, learned counsel for the respondent - employee has strenuously submitted that the employee, who has rendered the services from the year 1984. The length of service ought to have been taken into account by the petitioner while imposing the major penalty of dismissal of service. It is further contention that the petitioner has breached the mandate of Rule 6 of the Rules of 1964, which in an unequivocal manner mandates that imposing penalty is governed by Rule 6 of the Rules of 1964. After framing of definite charge, the statement of allegations on which they are based by communicating in writing to the employee and the employee has also tendered a written statement of defence. It is further submitted that the disciplinary authority has grossly erred in misreading and misconstruing the statement of defence, wherein the charges levelled against the employee were specifically refuted, however, a request was made to condone the same. Thus the disciplinary authority has erred in misreading the statement of defence, resultantly, the further mandate as is contemplated under Rule 6 of the Rules of 1964 is not complied with before imposing the major penalty of termination. It is further submitted that imposing major penalty of dismissal, ignoring the length of service of the

employee, is shockingly disproportionate and doctrine of proportionality is completely defied. As such, the Industrial Court has rightly allowed the complaint with an order of payment of back-wages from the date of termination, till the date of attaining superannuation.

7. Having heard the respective counsels for the litigating sides, admittedly, the employee was in service from the year 1984. The length of service ought to have been taken into account by the disciplinary authority while imposing major penalty, which is in gross violation of the mandate of Rule 6 of Rules of 1964, which unequivocally obligates the disciplinary authority to follow the procedure in the manner as has been laid down in the said Rule 6 of the Rules of 1964. Having framed the charge on the basis of the allegations and submitted the statement of allegation, which is responded by the employee by refuting the charges so levelled. However, misreading the explanation offered by the employee and making serious departure with the further procedure as is mandated by Rule 6 of the Rules, the order of dismissing the services of the employee has been issued, which is a major penalty and shockingly disproportionate. Necessarily the rigour of Rule 6 of the Rules, ought to have been complied with before imposing the major penalty. The departure with the mandate of Rule 6 of the Rules,

undoubtedly vitiates imposing the major penalty awarded by the disciplinary authority. These aspects are properly taken into account by the Industrial Court in its proper perspective and eventually allowed the complaint, directing the payment of back-wages from the date of dismissal to the date of retirement.

8. Even otherwise, the length of service of the employee from the year 1984, could not have been ignored by petitioner-Zilla Parishad, while imposing major penalty, pertinently in the absence of the adherence to Rule 6 of the Rules of 1964. The Industrial Court has taken into account departure with the mandate of Rule 6 by the employer while imposing major penalty terminating services, ignoring length of service, defying doctrine of proportionality, allowed the complaint of employee. As such, same does not warrant any interference in the well reasoned order rendered by the Industrial Court.

9. Admittedly Rule 6 regulates the imposing major penalty in a presented matter. Thus, if statute requires a thing to be done in a particular manner, it should be done in that manner. It necessarily prohibits the doing of the act in manner other than that which has been prescribed as held by Apex Court reported in ***2020(13)SCC 234***, in the case of ***Municipal Corporation, Gr. Mumbai Vs. Abhilash Lal and others***. Thus, departure with Rule 6 can't be permitted and

every act undertaken will have to be declared as illegal and unsustainable. As such, the same is in gross violation of the mandatory provisions. In any case, the ground of absenteeism could not have been weaponised to impose the major penalty, which is shockingly disproportionate as contrary to doctrine of proportionality when the employee has rendered the services for such length of service taking away the service benefits of its entirety. These aspects are taken into account by the Industrial Court in its proper perspective while allowing the complaint and upholding statutory and lawful entitlement of employee in the wake of long standing services of employee. Resultantly no error is noted in the order rendered by the Industrial Court. As such, the petition is dismissed.

Rule is discharged. No order as to costs.

(SACHIN S. DESHMUKH, J.)

MP Deshpande