

**BEFORE THE INDUSTRIAL COURT, MAHARASHTRA, (AMRAVATI BENCH), A M R A V A T I.**

**COMPLAINT (ULP) No.91/2013.**  
**CNR No.MHIC27000009-2013.**

Rajendra Ramkrishna Metkar

----- Versus -----

Chief Executive Officer, Zilla Parishad, Amravati.

**ORDER ON PRELIMINARY ISSUE No.1 & 2**  
**(Delivered On 11-07-2023)**

01] This is a complaint u/s 28 R/w Item 9 of Schedule IV of M.R.T.U. & P.U.L.P. Act. It is the contention of complainant that, by passing impugned order the respondent is indulged in unfair labour practice. It is further contended that, during enquiry the witnesses have not supported the alleged charges leveled against the complainant. The charges against complainant are vague and the preliminary enquiry was not conducted to see the substance in the complaint. The enquiry conducted by the respondent is not fair and proper which is against the principles of natural justice. On the other hand the respondent came with the case that, the order of punishment was passed after the enquiry. Sufficient opportunity was given to the complainant. The respondent has awarded minor punishment of barring two increments and treated the suspension period as suspension after completing the enquiry.

02] Considering the contentions of both sides issues

were framed and issues relating to enquiry are treated to be as preliminary issues. Those issues are as below to which I have recorded my findings with reasons thereon.

| <u>ISSUE</u>  | <u>FINDINGS</u> |
|---|-----------------|
| 1] Whether enquiry conducted against the complainant is fair and proper ? | ....Yes.        |
| 2] Whether the findings of enquiry officer are perverse ?                 | .....No.        |

### REASONS

03] As to Issue No.1 and 2 :- Heard both sides. The question is raised as to whether the enquiry conducted by the respondent is fair and proper and whether the findings of enquiry officer is perverse. Ld. Advocate for complainant submitted that, the respondent illegally and malafidely issued order of barring two increments and treated the suspension period as suspension with malafide intention to harass and victimise the complainant. No sufficient opportunity was given to the complainant during the enquiry. On the other hand Ld. Advocate for respondent submitted that, the enquiry was conducted in a proper manner by following principles of natural justice. It is submitted that, the minor punishment is imposed barring two increments.

04] The record indicates that, impugned order was

passed on 26.07.2013 alleging three different charges against the complainant. The enquiry was conducted and it was held that, the charges no.1 and 3 are partly proved and, therefore, the complainant has committed breach of Rule 3 of Maharashtra Zilla Parishad District Services (Conduct) Rules. Accordingly the respondent imposed punishment barring two increments permanently and treated the suspension period as suspension. The complainant has replied the charge-sheet and denied all the allegations. Accordingly the enquiry was conducted and concern witnesses were examined. The record indicates that, the complainant has denied to cross-examine most of the witnesses. The record shows that, the complainant has cross-examined only two witnesses namely Dr. A.H. Awghad Medical Officer and Smt. P.G. Akhare. Nothing helpful material is brought on record by the defaulter during cross-examination. On the other hand the record indicates that sufficient opportunity was given to the complainant to cross-examine the other witnesses but he denied to cross-examine.

05] It is one of the contention of complainant that, during his period of leave, under pressure the false complaints are filed on record. If this is the contention, the complainant is required to prove it in the complaint itself by adducing evidence. At this stage it is to be considered as to whether sufficient opportunity was given to him or not.

... 4 ...

The record prima facie indicates that, the principles of natural justice are followed by the respondent while conducting the enquiry. No malafides are brought on record to show that the enquiry officer has victimised the complainant by conducting false enquiry. On the contrary it is seen that, the complainant has denied to cross-examine those witnesses.

06] Considering the documents on record and submissions of both sides I comes to conclusion that, the enquiry conducted against the complainant is fair and proper as well as the findings are not perverse. In the result, I answer my findings accordingly and proceed to pass following order.

**ORDER**

- 1] It is held that, the enquiry conducted against the complainant is fair and proper and the findings of enquiry officer are not perverse.
- 2] The complainant is at liberty to prove the alleged unfair labour practice, if he so desire.
- 3] Parties to note.

Amravati  
Date :- 11.07.2023.

(D. N. Surwase)  
Member,  
Industrial Court, Amravati.

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