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C.A.No. 4393 OF 2002  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 4393 OF 2002

SHANKAR SHARNAPPA DHARANE .....APPELLANT (S)

Versus

S.G. MUTALIK DISTT. & SESSIONS JUDGE & ORS. ....RESPONDENT (S)

O R D E R

This appeal is preferred against the judgment of the Division Bench of the Bombay High Court. The appellant joined service as Stenographer on 12.8.1978 and had been working in a court at Sholapur. In 1983, a departmental enquiry was initiated against him and he was removed from service. The appellant preferred an appeal before the High Court which was allowed and he was reinstated in service though some penalty of stoppage of increments was imposed upon him. While working in the court of Senior Civil Judge at Sholapur Division, again disciplinary proceedings were initiated against him alleging that he refused to comply with the directions of the Civil Judge and on two occasions, he did not report for duty for taking dictation at the residence of Civil Judge. There was also an allegation that he remained absent from office during duty hours. The appellant was served with a copy of the charges and the District Judge as Enquiry Officer conducted enquiry against him. The Enquiry Officer found the appellant guilty of six charges and on 25.2.1988, the appellant was served the order of removal from service w.e.f. 29.2.1988. The order indicated that he was found to be totally inefficient in his duty and also guilty of arrogant behaviour and insubordination. Aggrieved by the order passed against him, he preferred an appeal before the High Court. The Administrative Judge considered the appeal preferred by the appellant and dismissed the appeal. Thereafter, the appellant filed a writ petition challenging the order passed by the High Court on the administrative side. Before the High Court, the appellant contended that along with show cause notice proposing penalty of dismissal from service he was not served with a copy of the enquiry report. The High Court by the impugned judgment held that the appellant was not seriously prejudiced by the non-supply of the Enquiry Officer's Report and there was no violation of the principle of natural justice. The judgment of the High Court is under challenge before us.

We have heard learned counsel and learned Senior Counsel appearing on behalf of the parties. The counsel for the appellant contended that there was violation of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. Rule 9 of the MCS (Discipline and Appeal) Rules, 1979 is the relevant Rule. Rule 9(4) reads as follows:-

- "9. Action on the inquiry report.
- (1) .....
  - (2) .....
  - (3) .....

(4) If the disciplinary authority, having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry, is of the opinion that any of the penalties specified in clauses (v) to (ix) of sub-rule (1) of rule 5, should be imposed on the Government servant, it shall make an order imposing such penalty and it shall not be necessary to give the Government servant any opportunity of making representation on the penalty proposed to be imposed:

Provided that, in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice, and such advice shall be taken into consideration before making an order imposing any such penalty on the Government servant."

The above Rule does not contemplate the supply of a copy of the Enquiry Report of the Enquiry Officer to the delinquent employee along with the show cause notice for the purpose of imposing penalty. However, Rule 11 says that orders made by the disciplinary authority shall be communicated to the Government servant who shall also be supplied with a copy of the report of the enquiry, if any, held by the disciplinary authority and a copy of its findings on each article

le of charge, or, where the disciplinary authority is not the inquiring authority, a copy of the report of the enquiry authority and a statement of the findings of the disciplinary authority together with brief reasons for its disagreement, if any, with the findings of the inquiring authority.

In the instant case, it is alleged by the appellant that a copy of the report of the Enquiry Officer along with show cause notice for imposing penalty was not furnished to him. As the Rule does not say that such a procedure is to be adopted, we find no reason to accept the contention advanced by the appellant. As regards violation of Rule 11, the appellant did not raise any such contention before the High Court and the High Court has also not considered this aspect in the impugned judgment. As regards violation of Rule 11, we do not think that the appellant is, in any way, seriously prejudiced. The purpose of Rule 11 to furnish a copy of the Enquiry Report along with order made by the disciplinary authority is to enable the appellant to file an effective appeal before the appellate authority. In this case, the appellant filed a very detailed appeal before the appellate authority and the learned Single Judge who was in charge of the administration of the District gave reasoned order which is incorporated in the impugned judgment of the High Court. It is also pertinent to note that the charges against the appellant was dereliction of duty as he had not acceded to the request of the presiding officer to take

dictation and that he kept himself away from duty. No complex questions of facts or law were involved and the appellant could have very well filed his appeal without help or legal assistance. No prejudice could have been caused to the appellant. The learned counsel for the appellant placed reliance on the decision reported in AIR 1986 SC 1173 (Ram Chander vs. Union of India and others), AIR 1971 SC 862 (Travancore Rayons Ltd. vs. Union of India) and AIR 1999 SC 145 (All India Defence Services Employees Association vs. Union of India) and contended that the detailed reasons should have been given by the appellate authority while disposing of the appeal. The order passed by the Judge, in charge of the administration, which is incorporated in the impugned judgment shows that the learned Single Judge had considered the appeal on merits and had given reasoned order considering all material facts. We do not think that there was any violation of the principle of natural justice.

The counsel lastly contended that the appellate authority made reference to the Confidential Report of the delinquent employee and this was not warranted as the entries in the Confidential Report of the appellant were not furnished to him before reliance was placed on such material. We do not think that the learned Single Judge while dealing with the appeal had relied upon any entry in the Confidential Report but made a reference to the previous disciplinary proceedings initiated against the appellant which resulted in his removal and later reinstatement of the appellant in service. That was the relevant fact which was taken into consideration and we do not think that on that ground also there was any illegality.

For the reasons stated above, we do not find any merit in this appeal which is accordingly dismissed.

.....J.  
[K.G. BALAKRISHNAN]

.....J.  
[DR. AR. LAKSHMANAN]

New Delhi,  
October 26, 2004.

ITEM NO.101

COURT NO.7

SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO. 4393 of 2002

SHANKAR SHARNAPPA DHARANE APPELLANT (s)

VERSUS

S.G. MUTALIK DISTT. & SESSIONS JUDGE & ORS. Respondent(s)

(With prayer for interim relief)

Date: 26/10/2004 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN  
HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant (s)

Mr. Raja Venkatappa Naik, Adv.  
Mr. Deo Pujari, Adv.  
Mr. Varinder Kumar Sharma, Adv.

For Respondent(s)

Mr. S.V. Deshpande, Adv.

Mr. U.U. Lalit, Sr. Adv.  
Mr. S.S. Shinde, Adv.  
Mr. Mukesh K. Giri, Adv.

UPON hearing counsel the Court made the following  
O R D E R

The appeal is dismissed in terms of the signed order.

[SATISH K. YADAV]  
COURT MASTER

[VEERA VERMA]  
COURT MASTER

( Signed order is placed on the file )