

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3752 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DILIPSINH M RANA, SINCE DECEASED THROUGH HEIRS AND LEGAL R.

Versus

STATE OF GUJARAT

Appearance:

MR PV HATHI for Petitioners No. 1-1/3

Ms.Harsha Devani, AGP, for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 31/01/2002

ORAL JUDGEMENT

1. Originally, the petition was filed by the petitioner Dilipsinh M. Rana, but, during the pendency of this petition, he has expired and his heirs and legal representatives are brought on record. The deceased employee was serving as a General Duty Clerk in the Home Department. The aforesaid employee was subjected to

departmental proceedings on the ground that he was in the habit of remaining absent frequently. It was alleged that he remained absent for the period between 1987 and 1988 for a long time without prior sanction of leave. The charge-sheet was served upon him on 12.7.1988, and a regular departmental enquiry was initiated. The Enquiry Officer, after considering the evidence on record, came to the conclusion that the charges against the delinquent employee were proved and, ultimately, by order dated 14.6.1990, the said employee was dismissed from service. The said order dated 14.6.1990 was challenged before the Gujarat Civil Services Tribunal by way of appeal, being Appeal No.276 of 1990. The Tribunal, by its order dated 14th March, 1991, allowed the appeal partly. The order of dismissal was substituted by the Tribunal by an order of removal. The aforesaid order is impugned in this Special Civil Application.

2. As stated earlier, initially, the petition was filed by the petitioner-employee himself, i.e. Dilipsinh M. Rana, but during the pendency, he died and his heirs, being petitioners 1/1 to 1/3, were brought on record.

3. I have gone through the order of the Services Tribunal and I have heard the arguments of Mr.P.V. Hathi, learned Advocate for the petitioners, as well as the submissions of Ms.Devani, learned AGP.

4. It is not in dispute that the enquiry was properly held against the delinquent employee and the delinquent was given appropriate opportunity to defend his case. Mr.P.V. Hathi, however, submitted that the Disciplinary Authority has not given appropriate reasons for not accepting the contentions made in the representation made by the petitioner dated 4.6.1990. However, it is required to be noted that the Disciplinary Authority accepted the report of the Enquiry Officer and while passing the final order of punishment, it was not necessary for the disciplinary authority to give detailed reasons. The Tribunal considered the entire case on merits and the petitioner was permitted to argue all the points on merits. The Tribunal found in paragraph 12 that the petitioner proceeded on leave as per his own sweet will without prior sanction and remained on leave for a long period and went on extending the said leave and, practically, he remained on self-granted leave. Details about such absenteeism is incorporated by the Tribunal in paragraphs 13 and 14 of its order. The Tribunal also found that the conduct of the petitioner, who was the appellant before the Tribunal, shows that he was only loyal to himself and, may be, to his family and

relations, but he was far from loyal and faithful to his employer or to the Department, in which he was employed.

After considering the evidence on record, ultimately, the Tribunal confirmed the finding of the Disciplinary Authority regarding the misconduct of the delinquent.

This Court, in a petition filed under Article 226 and 227 of the Constitution of India, cannot re-appreciate the entire evidence. Even otherwise, when there is sufficient evidence on record against the delinquent and ultimately, when the enquiry is held according to the principles of natural justice, this Court cannot re-appreciate the entire evidence as if it is deciding the regular departmental appeal. So far as the quantum of punishment is concerned, the Tribunal also considered the same and substituted the punishment from dismissal to removal. In that view of the matter, in my view, it cannot be said that either the Disciplinary Authority or the Tribunal has committed any error of law in coming to the conclusion that the charges against the delinquent employee were proved. Considering the reasoning given by the Tribunal, in my view, no interference of this Court is called for. Once the Disciplinary Authority has accepted the findings given by the Enquiry Officer, no interference by this Court is required only on the ground that the Disciplinary Authority accepted the report of the Enquiry Officer. In that view of the matter, I do not find any substance in this petition and the same is required to be dismissed and it is accordingly dismissed. Rule is discharged with no order as to costs.

(P.B. Majmudar, J.)

(apj)