IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

WRIT PETITION NO.6741 OF 2024

Ashok Ereshrao Dandewar
Age: 57 years, Occu : Service (Senior Clerk)
Resident of: Radhika Villa, Laxmi colony
old Ausa Road, Latur, Dist. Latur ...Petitioner

Versus

1) The Chief Engineer,
MSEDCL Latur Circle, Vidyut Bhavan,
First Floor, Old Power House, Sale Galli,
Latur- 413512

2) The Superintendent Engineer,
MSEDCL, Circle Office, Sale Galli,
Old Power House, Latur-413512

3) The Executive Engineer,
MSEDCL, Nilanga Division Office,
33/11K.V. Sub Center Area, Hadga Road,
Nilanga-413521 District: Latur

4) The Deputy Executive Engineer,
MSEDCL Nilanga Sub Division Office,
33/11K.V. Sub Center Area, Hadga Road,
Nilanga-413521 District: Latur ... Respondents

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Shri. Akshay D. Kulkarni h/f. Shri. Amit A. Yadkikar,
Advocate for the Petitioner
Shri. Anil S. Bajaj, Advocate for Respondent Nos.1 to 4

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CORAM : NEERAJ P. DHOTE, J.
Dated : JUNE 30, 2026

ORAL JUDGMENT :-

. By the present Writ Petition under Article 227 of the Constitution of India, the Petitioner has challenged the order of imposing punishment

in the departmental enquiry and the orders passed by the Appellate Authorities. Following prayers are made in the Writ Petition:

> *"A) This Writ Petition may kindly be allowed thereby quashing & setting aside the impugned order bearing Outward no. Ka. A./Nilanga/Mas./ Gop/609/100812/110/07 dated 30.11.2022 issued by the Executive Engineer & Competent Authority, MSEDCL, Nilanga.*
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> *B) This Writ Petition may kindly be allowed thereby quashing and setting aside the impugned order dated AA/ Latur/ Mas./ Gop/10000364/2022/100812/112065/No.-087 dated 18.01.2023 issued by the Superintendent Engineer & Competent Authority, MSEDCL, Circle Office, Latur.*
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> *C) This Writ Petition may kindly be allowed thereby quashing and setting aside the impugned order bearing outward no MuA/Lap/Latur/Mas./267/2023/100812/119894 dated 24.07.2023 issued by the Chief Engineer & Second Appellate Authority, Latur Circle, Latur.*
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> *D) This Hon'ble Court may further kindly be pleased to allow this Writ Petition with directions to the Respondent Authorities to restore all monetary benefits and reinstate the Petitioner to his original post with continuity in service over said post.*
>
> *E) Costs of this Writ Petition may kindly be awarded to the Petitioner.*
>
> *F) Any other appropriate relief as may be deemed fit by this Hon'ble Court may kindly be granted.*
>
> *INTERIM RELIEF*
>
> *G) Pending the admission, hearing and final disposal of this Writ Petition the effect, operation and implementation of the impugned orders Ka. A./ Nilanga/ Mas./Gop/609/ 100812/110/07 dated 30.11.2022 issued by the Executive Engineer & Competent Authority, MSEDCL, Nilanga so also AA/Latur/Mas./Gop/10000364/2022/100812/112065/No.-087 dated 18.01.2023 issued by the Superintendent Engineer & Competent Authority, MSEDCL, Circle Office, Latur so also the order bearing outward MuA/Lap/Latur/Mas./267/2023/ 100812/119894 dated 24.07.2023 issued by the Chief Engineer & Second Appellate Authority, Latur Circle, Latur may kindly be stayed."*

2. The brief facts of the case are that, the Petitioner was in the services of the Maharashtra State Electricity Distribution Company Limited (for short, 'MSEDCL') as the 'Assistant Accountant' and was posted at Sub-Division Office, Nilanga, Dist. Latur since 09.07.2019. The Petitioner was served with the Charge-sheet dated 28.07.2022 by the Executive Engineer and Competent Authority, MSEDCL, raising 11 charges against him for the breach of condition nos. 4, 6, 8, 9, 22 and 23 of Schedule 'B' of the MSEDCL Employees Service Regulations, 2005 (for short, 'Service Regulations') applicable to the employees of MSEDCL. The Petitioner did not respond to the Charge-sheet. The Enquiry Officer was appointed. The enquiry was conducted. The Petitioner was served with the Report of the Enquiry Officer along with a show-cause notice. The Petitioner responded to the same. Thereafter, by order dated 30.11.2022, the order of demotion (reduction to a lower stage) was passed by the Competent Authority.

3. Being aggrieved by the punishment, the Petitioner filed the First Appeal before the concerned Authority. The said Appeal came to be dismissed by order dated 18.01.2023. Thereafter, the Petitioner filed the Second Appeal before the concerned Authority which also came to be dismissed by order dated 24.07.2023.

4. Heard the learned Advocate for the Petitioner and the learned Advocate for the Respondents finally at the admission stage. With their

assistance, perused the papers on record.

(A) It is submitted by the learned Advocate for the Petitioner that, the enquiry was conducted against Service Regulations. No witness was examined by the department before the Enquiry Officer. Only the documents were submitted. The Enquiry Officer, on the basis of the documents, put questions to the Petitioner, to which the Petitioner responded. The defence of the Petitioner was not considered. The manner in which the enquiry was conducted, was contrary to the principles of natural justice and the settled position under the law. It is further submitted that, the Appellate Authority did not grant personal hearing to the Petitioner and decided the Appeal in violation of the Service Regulations. He submits that, the Petition be allowed and the impugned orders be quashed and set aside. In support of his submissions, he relied on the following decisions :

*(a)* Jai *Prakash Saini vs. Managing Director, U.P. Cooperative Federation Ltd. & Ors. MANU/SC/ 0290/2026,*

*(b)* *Chamoli District Co-operative Bank Ltd. v. Raghunath Singh Rana & Ors., MANU/SC/0627/2016,*

*(c)* *Miss Kavita Bhagwat Marathe vs. Maharashtra State Electricity Distribution Company Limited in Writ Petition No.6747 of 2019 decided by this Court on 30.09.2022.*

(B) It is submitted by the learned Advocate for the Respondents – MSEDCL that, after the charges were framed, the Charge-sheet was served on the Petitioner. The Petitioner did not deny the charges. The

Competent Authority appointed the Enquiry Officer and the Presenting Officer as per the Service Regulations. The relevant circulars, which were relevant in the enquiry, were placed with the documents. The Petitioner failed to lead any evidence in support of his defence. The departmental enquiry was held in accordance with the Service Regulations. It is submitted that, though there is no dispute regarding the ratios laid down in the above-referred decisions, the same are not applicable to the facts and circumstances of the present case. The charge in the case decided by this Court was one of abuse; therefore, this Court held that the examination of witnesses was mandatory. The facts of those cases were entirely different. It is submitted that, the Appellate Authority decided the Appeals in consonance with the Service Regulations. It is submitted that, no interference is called for in the impugned orders and the Petition be dismissed.

5. The MSEDCL has framed the MSEDCL Employees Service Regulations, 2005 and a copy of the same is placed on record. The said Regulations provide for the procedure for dealing with the acts of misconducts. The relevant Regulation No.88 which provides for Suspension, Charge-sheet, submission of Written-statement, oral statement, inspection of documents, production of documents and other evidence by the employee, recording of oral evidence, etc.

6. In ***Miss Kavita Bhagwat Marathe*** *(supra),* this Court has dealt with the said Service Regulations of the MSEDCL, particularly Regulation No.88. The observation made in the said Judgment shows that, this Court had, on an earlier occasion, dealt with the said Service Regulations and expressed anguish about absence of provision in the said Regulations to give an opportunity to the delinquent employee to cross-examine the witness. Reference has also been made to the decision in **Chief Engineer Latur Zone and Competent Authority MSEDCL and Another vs. Nathuram Wamanrao Mundhe** in **Writ Petition No.11616 of 2018** decided on **20.02.2020**, wherein the MSEDCL was advised to re-look at Regulation 88 (b) to (g) of the said Regulations and to ensure that it was brought in tune with the crystallized position of law. Reference has also been made to the decisions in **Roop Singh Negi vs. Punjab National Bank and others, AIR 2008 SC (Supp) 921, Ministry of Finance and another vs. S. B. Ramesh, AIR 1998 SC 853, Union of India and others vs. Naman Singh Shekhawat (2008) Vol. 4 SCC 01 and Mini Shankar vs. Union of India and another (2008) 3 SCC 484**, wherein it was held that, *findings recorded in the disciplinary enquiry without following principles of the natural justice become perverse and that such evidence is required to be ignored.*

7. In ***Chamoli District Co-operative Bank Ltd.*** *(supra),* the Appeal was in respect of the punishment imposed in the departmental inquiry.

The relevant Service Regulations, which were applicable to the Petitioner therein and the earlier decisions in respect of the departmental enquiries were considered. The observations in the said Judgment show that, after submission of the Reply, the disciplinary authority issued show cause notice asking the employee to submit his reply. It is observed that, '*when the Inquiry Officer was appointed, conducting of the inquiry was mandatory and without conducting of an inquiry and without any inquiry report having been served on the employee/respondent No.1, Disciplinary Authority could not have proceeded to impose any punishment*.' It is further observed that, '*the compliance of natural justice in domestic/disciplinary inquiry is necessary has long been established. This Court has held that even there are no specific statutory rule requiring observance of natural justice, the compliance of natural justice is necessary*.'

8. In ***Jai Prakash Saini*** *(supra),* it was the Appeal in respect of the punishment imposed in the departmental enquiry. In that case, the delinquent did not make any request for producing any defence witness during the enquiry nor any request to cross-examine any person whose letter or report was relied in support of the charges was made. By considering the earlier decisions, in ***Sur Enamel and Stamping Works (P) Ltd. v. Their Workmen,*** 1964 SCR (3) 616, ***State of Uttaranchal & Ors. v. Kharak Singh, (2008) Vol. 8 SCC 236, and Chamoli District***

***Co-operative Bank Ltd. (supra),*** it is held that, *'It is now well settled that unless the charged employee accepts his guilt in clear terms, an enquiry on the charges drawn against him would have to be held. In the enquiry, the employer /department would have to take steps first to lead evidence against the workmen / delinquent charged and give an opportunity to him to cross examine those witnesses. Only thereafter, the workmen / delinquent shall be asked whether he wants to lead any evidence and/ or submit an explanation about the evidence led against him. Even in a case based solely on documentary evidence, unless the relied upon documents are admitted by the charged employee, a witness would have to be examined to prove those documents and when so examined, the witness would have to be tendered for cross-examination*'.

9. Coming to the case at hand, the aforesaid Service Regulations 2005 provides for recording of oral evidence. It provides that, oral evidence may be recorded by the Enquiry Officer if he permits any witness to be produced by either side. The papers show that, in all 11 Charges were framed against the Petitioner by the Disciplinary Authority. The gist of the Charges against the Petitioner were (i) Depriving the company of its revenue (ii) Inexcusable negligence resulting in loss to the Company (iii) Lack of supervision and control over the subordinates (iv) indiscipline, (v) violation of Rules, Regulations, Circulars, Orders, or

instructions (vi) dereliction of official duties. Undisputedly, the Petitioner did not file his response to the Charges. However, the Disciplinary Authority appointed the Enquiry Officer and the Presenting Officer in the departmental enquiry. The Presenting Officer submitted certain documents before the Enquiry Offier. Undisputedly, no witness was examined by the department in support of the Charges levelled against the Petitioner. On the basis of the documents submitted by the Department / Presenting Officer, the Enquiry Officer questioned the Petitioner and the Petitioner responded to the same. It appears that, in response to some questions, the Petitioner admitted that, there was delay on his part to deposit the amount. Relying upon the Petitioner's answers to the questions, the Enquiry Officer submitted the Enquiry Report dtd.14.10.2022 recording his finding that, some of the charges were fully established and the others were partially established. Thereafter, the show cause notice was issued to the Petitioner calling upon him to submit his response and on receipt of the response, the punishment order was passed.

10. The above undisputed aspects of the matter clearly go to show that, the enquiry was not conducted in accordance with the settled principles of law laid down in the above-referred decisions and was conducted in violation of the applicable Service Regulations. The Enquiry Officer put the questions to the Petitioner on the basis of documents submitted by the Presenting Officer without there being oral

evidence from the Department and by considering the responses, recorded the finding that the Charges were proved. The approach adopted by the Enquiry Officer is unknown to the settled legal position in respect of departmental enquiries. The said Service Regulations do not contemplate or authorize any such procedure to be adopted by the Enquiry Officer. By not leading any evidence, the department failed to prove / establish the Charges against the Petitioner. Mere filing the documents by itself will not tantamount to leading evidence, in support of the Charge. Under such facts and circumstances of the case, the enquiry and the consequential punishment cannot stand the scrutiny of law and stand vitiated. As the disciplinary proceedings are vitiated, orders impugned are unsustainable. Resultantly, the the natural consequences will follow. Undisputedly, the Petitioner retired from the services in November – 2024 i.e. before 1 year and 6 months, therefore, no directions of reinstatement are warranted. The Petitioner would be entitled to all the service benefits of the post on which he was serving before the order of punishment was passed in accordance with law. Hence, the following order.

ORDER

(i) The Petition is allowed in terms of prayer clauses 'A' 'B' and 'C' and stands disposed of.

**( NEERAJ P. DHOTE, J. )**

GGP