

HIGH COURT OF MADHYA PRADESH
BENCH AT GWALIOR
BEFORE
HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE RAJENDRA KUMAR VANI
MISCELLANEOUS PETITION NO.4200/2021

DHARMVIR S. AGNIHOTRI

VS.

**UNION OF INDIA THROUGH CHAIRMAN & MANAGING
DIRECTOR AND OTHERS**

Appearances:-

Petitioner is present in person.

*Shri Praveen Kumar Newaskar – Deputy Solicitor General for
respondent No.1/ Union of India.*

*Shri Rajendra Bhargava and Ms. Priyanka Tonk – Advocate
for respondents No.2, 3 and 4.*

ORDER

(Delivered on 16th day of June, 2025)

1. The instant Miscellaneous Petition under Article 227 of the Constitution of India is filed being crestfallen by the order dated 30/03/2013 (Annexure P/8) whereby appeal preferred by the petitioner against the order of punishment dated 27/02/2007 was dismissed.
2. Brief facts of the case are that petitioner was working as Sub

Divisional Engineer (SDE) in the respondents/ department and was provided temporary advance amount by the Accounts Officer/ General Manager Telecom, District-Morena in April, 2006 for managing the requirements and expenditure of the office of Deputy General Manager, Bhind. In November, 2006, General Manager Telecom Department (hereinafter referred as GMTD), Morena questioned the account bills for 5-6 months submitted by the petitioner and Junior Accounts Officer, Morena issued memorandum/ charge-sheet on 15/12/2006 against the petitioner. Petitioner replied to the charge-sheet on 30/12/2006 denying all the allegation. Thereafter, GMTD Morena passed order dated 27/02/2007 (Annexure P/5) and imposed penalty of withholding of one increment without cumulative effect against the petitioner. Against the same, petitioner filed appeal which was dismissed vide order dated 30/03/2013 (Annexure P/8).

3. Meanwhile, petitioner suffered an accident on 19/11/2013 while he was transferred from Guna to Mungaoli and sustained serious injuries therefore, he remained on medical leave from 21/11/2013 to 26/07/2015. When he joined his duty, he filed an Original Application No.1066/2015. The learned Central Administrative Tribunal (CAT) found that petitioner has not availed remedy available to him and he should first file review and thereafter come in O.A. Therefore, the CAT granted liberty to the petitioner to

withdraw O.A. to file a fresh application with better particulars vide order dated 16th February, 2016.

4. Thereafter, petitioner filed review application on 06/04/2016 but the reviewing authority has not decided the review application till date therefore, petitioner filed O.A. No.202/00953/2016, which was dismissed vide order dated 07th February, 2019 on the ground of limitation, therefore, petitioner is before this Court.

5. It is the submission of learned counsel for the petitioner that respondent No.2 passed the order imposing penalty without following due process of law and only because of receiving notice from the Court in the case pending for promotion of the petitioner vide W.A. No.331/2007. It is further submitted that Dy. General Manager of the respondents/ Department made recommendation letter dated 03/07/2007 to the Chief General Manager, MP Circle Bhopal stating that petitioner has not caused any loss to the respondents/ department and has not misused any amount granted under the head temporary advance but the same was ignored and order of penalty was passed. Therefore, the order of penalty deserves to be set aside.

6. Learned counsel for respondents No.2,3 and 4 opposed/ BSNL opposed the prayer and submits that petitioner misused the fund provided to him for maintenance of the department and produced false vouchers, therefore, he was saddled with punishment of

withholding of one increment without cumulative effect. The appellate Court also found mischief of the petitioner and dismissed the appeal. He prayed for dismissal of the petition.

7. Learned counsel for respondent No.1/ Union of India also opposed the prayer and prayed for its rejection.

8. Heard the learned counsel for the parties and perused the documents appended thereto.

9. This is a case where petitioner is taking exception to the order dated 30/03/2013 whereby appeal preferred by the appellant against the order of punishment dated 27/2/2007 was rejected by passing a reasoned order.

10. So far as order of the learned CAT is concerned, it appears that petitioner filed O.A. against the order of appellate Court dated 30/03/2013 after lapse of 03 years, therefore, learned CAT rejected the O.A. on the point of limitation vide order dated 07th February, 2019. Although as per Section 21 of the Administrative Tribunals Act, 1985 and judgment of the Hon'ble Apex Court in the case of **Union of India Vs. M.K. Sarkar, (2010) 2 SCC 58**, case of petitioner deserves to be dismissed on the point of limitation because after lapse of 03 years, O.A. was filed before the learned Tribunal.

11. Be that as it may. Even if the case of the petitioner is seen from the vantage point of merit then also, it appears that the appellate Authority considered the submission of petitioner and thereafter

rightly came to the conclusion about the rejection of the same. Matter was in respect of false vouchers submitted by the petitioner leading to financial loss to the BSNL.

12. In administrative arena, it is always decision making process which is to be seen and not the decision itself as mandated by the Hon'ble Apex Court in the case of **Union of India and Another Vs. K.G. Soni, 2006 (6) SCC 794**, wherein Apex Court observed as under :-

“14. The common thread running through in all these decisions is that the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case [Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn., (1948) 1 KB 223] the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in the decision-making process and not the decision.”

13. Therefore, considering the case on the basis of merits also, no case for interference is made out.

14. Scope of Petition under Article 227 of the Constitution of India is very limited as propounded by the Hon'ble Apex Court in the case of **Shalini Shyam Shetty and Another Vs. Rajendra Shankar**

Patil, 2010 (8) SCC 329, wherein it has been held that only illegality, propriety and perversity of the order can be seen and not the order.

15. In the conspectus of the facts and circumstances, the Misc. Petition sans merits and the same is hereby *dismissed*.

(ANAND PATHAK)
JUDGE

(RAJENDRA KUMAR VANI)
JUDGE