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**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE  
HON'BLE SHRI JUSTICE VIVEK AGARWAL**

**ON THE 3<sup>rd</sup> OF MAY, 2023**

**WRIT PETITION No. 2414 of 2003**

**BETWEEN:-**

**R.P.TIWARI S/O B.P TIWARI, AGED ABOUT 48 YEARS,  
R/O NEAR AYURVEDIC HOSPITAL, KHAJURAHO  
(MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI ANKIT CHOPRA - ADVOCATE)***

**AND**

- 1. THE CHAIRMAN, M.P. STATE TOURISM  
DEVELOPMENT CORPORATION, BHOPAL  
(MADHYA PRADESH)**
- 2. THE MANAGING DIRECTOR M P STATE TOURISM  
DEVELOPMENT CORPORATION GANGOTRI  
BHAWAN 4TH FLOOR BHOPAL (MADHYA  
PRADESH)**
- 3. DY MANAGING DIRECTOR M P STATE TOURISM  
DEVELOPMENT CORPORATION REGIONAL  
OFFICE KHAJURAHO (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI SOURABH PATHAK - ADVOCATE)***

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*This petition coming on for hearing this day, the court passed the  
following:*

**ORDER**

This writ petition is filed by the petitioner being aggrieved of order dated 24/03/1998 passed by the Madhya Pradesh State Tourism Development Corporation Limited whereby petitioner was inflicted with penalty of removal from service. It is petitioner's case that he was not provided with complete set

of documents during the course of inquiry and that has caused prejudice to the interest of the petitioner.

It is also submitted that there is no mention of the specific date of the incident and infact, the incident had taken place on 10/09/1993 whereas later on, it was supplemented to had taken place on 14/09/1993 and 15/09/1993 alleging that petitioner had refused to take bus from Khajuraho to Jhansi and back to Khajuraho causing inconvenience to the passengers who had booked their tickets and also causing dent to the reputation of the corporation.

Petitioner's submission is that the impugned order dated 24/03/1998 be quashed and respondents be directed to reinstate the petitioner with all consequential benefits.

Shri Sourabh Pathak, learned counsel for the respondents/corporation submits that the impugned order of punishment is an appealable order in terms of Rule 43 of the Madhya Pradesh State Tourism Development Corporation Limited Service bye-laws 1979. It is further submitted that as per bye-laws 48, that against the order of Managing Director, the appeal lies to the Board of Directors.

Thus, firstly petitioner has failed to avail statutory remedy of appeal as provided in bye-laws 43 and 48 respectively. It is also submitted that there is a limited scope for indulgence in the matter of departmental enquiry and places reliance on the judgment of the coordinate Bench of this High Court in **Procter and Gamble Hygiene and Health Care Ltd. Vs. C.C. & C. Ex., Bhopal** reported in **2002 SCC Online MP 796** wherein it is held that when a statutory forum of Tribunal is specially created by a statute for redress of specified grievances of persons on certain matters, the High Court should not normally permit such persons to ventilate their specified grievances before it by

entertaining petitions under Article 226 of the Constitution is a legal position which is too well settled.

After hearing learned counsel for the parties and going through the record, this court repeatedly requested Shri Ankit Chopra to point out from the record that petitioner had ever raised any objection in regard to non-availability of the documents before the inquiry officer. He has shown some documents which are prior to the petitioner appearing before the inquiry officer and subsequent to issuance of show-cause notice enclosing along with copy of the enquiry report but has not been able to produce any document or lay hand to any document to point out that petitioner ever raised any objection as to non-furnishing of the documents before the inquiry officer.

I have perused the enquiry report as well as the documents which have been filed by the respondents Corporation in the form of the proceedings of the inquiry. There is no iota of suggestion that since the petitioner was not given documents, he was deprived of effective cross-examination of the prosecution witnesses.

Infact, the Managing Director in his impugned order has categorically noted that with a view to afford another opportunity to the petitioner to putforth his case, he was again supplied with the documents and was afforded an opportunity of hearing in person but petitioner failed to avail that opportunity. No reason is given for not availing the said opportunity of personal hearing. Thus, law is well settled as laid down in the case of **Union of India and others Vs. P. Gunasekaran (2015) 2 SCC 610** that there is a limited scope in the matter of departmental enquiry and the punishment inflicted consequent to such departmental enquiry.

This High Court is not sitting as the second court of appeal over the findings of the disciplinary authority. Petitioner admittedly displayed dereliction of duty. It was proved that petitioner had taken bus from the depot to the hotel for boarding of the passengers on 14/09/1993. After passengers had boarded the bus, he refused to take drive in down.

These all indicate towards dereliction of duty on the part of the petitioner. When tested, then neither the departmental enquiry suffers from any vice nor the order of punishment. It cannot be said to be disproportionate or shocking to the conscience of the court.

In view of such facts and the law laid down by the Supreme Court in the case of **P. Gunasekaran** (supra), this court is of the opinion that there are no grounds for judicial review. In the absence of any pleading or malafides or lack of authority vested in the Managing Director to dispense with the services of the petitioner.

Thus, there being no technical or legal lacuna in the matter, and on facts, petitioner failed to adduce proper evidence to discard the charges, the petition fails and is **dismissed**.

(VIVEK AGARWAL)  
JUDGE