

(2009) 04 BOM CK 0003
In the Bombay High Court
Case No : Writ Petition No. 434 of 2008

Shri Nerlon L.B. Albuquerque

APPELLANT

Vs

State of Goa and Shri Kishen Kumar, Inspector General of
Police

RESPONDENT

Date of Decision : 01-04-2009

Acts Referred:

Citation : (2009) 04 BOM CK 0003

Hon'ble Judges : U.D. Salvi, J;P.B. Majmudar, J

Bench : Division Bench

Advocate : Ashwin Naik, Mike Mehta, M.A. Misquita, Nitin Sardessai and P. Bandekar, for the Appellant; S.S. Kantak, General and Sapna Mordekar, Additional Government Advocate, for the Respondent

Judgement

P.B. Majmudar, J.—By way of this petition, the petitioner has challenged the order of dismissal passed by the Inspector General of Police, Panaji, Goa. The grievance of the petitioner is that a departmental inquiry was dispensed with and, therefore, the petitioner was deprived of an opportunity of defending his case. It is submitted that there was no justification for dispensing with the departmental inquiry.

2. The learned Advocate General, after taking instructions from the respondents, today states that the impugned order of dismissal is being withdrawn and the Disciplinary Authority shall now hold an appropriate inquiry against the petitioner, and after hearing the petitioner, appropriate decision shall be taken in the matter, in accordance with law. It is submitted by the learned Advocate General that the petitioner shall, however, continue to remain under suspension till the inquiry is concluded. The learned Counsel for the petitioner submitted that appropriate directions be given to the Disciplinary Authority to expedite the inquiry and conclude the same within a reasonable period.

3. Since the impugned order dated 10th April, 2008 is being withdrawn by the State Government, now it is not necessary to examine the issue as to whether it

was a fit case for dispensing with the departmental inquiry. The Disciplinary Authority shall now proceed with the matter, and after giving an opportunity of hearing to the petitioner, decide the same in accordance with the Rules. Considering the facts and circumstances of the case, the Disciplinary Authority shall complete the inquiry by 31st August, 2009, with a hope that no further extension would be sought for. The petitioners shall continue to remain under suspension during the pendency of the Departmental Inquiry. However, it will be open to the petitioner to make an appropriate representation in connection with reviewing of the suspension order. But the decision on this aspect is left to the Disciplinary Authority. It is needless to say that the petitioner shall be entitled to subsistence allowance as per Rules, in view of the fact that the petitioner will be under suspension during pendency of the Departmental Inquiry.

4. Subject to what is stated above, the writ petition is disposed of. There shall be no order as to costs.