

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 260 OF 2023  
(Subject – Suspension)**

**DISTRICT : JALGAON**

**Suryakant Devidas Nikam,** )  
Age : 50 Yrs., Occu. : Service as )  
Sub-Divisional Water Conservation Officer,) )  
(At present Suspended), )  
R/o : 50, "Shakuntal", Shahunagar, )  
Bhadgaon Road, Behind Nilam Garden,) )  
Pachora, Tq. Pachora, Dist. Jalgaon-424201)

.... **APPLICANT**

**V E R S U S**

**1. The State of Maharashtra,** )  
Through : The Additional Chief Secretary,) )  
Soil & Water Conservation Department,) )  
Mantralaya, Mumbai-32. )

... **RESPONDENT**

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**APPEARANCE** : Shri K.B. Jadhav, Counsel for Applicant.

: Shri N.U. Yadav, Presenting Officer for  
respondent authorities.

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**CORAM** : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

**DATE** : **09.01.2024.**

**O R A L - O R D E R**

1. Heard Shri K.B. Jadhav, learned counsel appearing for the applicant and Shri N.U. Yadav, learned Presenting Officer appearing for respondent authorities.

2. Being aggrieved by the suspension order dated 24.03.2023 issued by respondent; the applicant has approached this Tribunal by filing the present Original Application.

3. Brief facts as stated by the applicant giving rise to the Original Application are as follows:-

(i) The applicant was appointed on the post of Junior Engineer on 02.09.1996 and posted at Dhadgaon, Dist. Nandurbar. Thereafter, he was transferred at various places. Thereafter, the applicant came to be promoted on the post of Sub-Divisional Water Conservation Officer on 30.06.2021 and posted at Sub-Divisional Water Conservation Officer, Soil and Water Conservation Sub-Division, Parola, Dist. Jalgaon and since then he is working on the said post. Under this sub-Division four Talukas comes viz. Parola, Pachora, Bhadgaon and Chalisgaon. There is another Sub-Division viz. Sub-Divisional Water Conservation Officer, Soil and Water Conservation Sub-Division, Parola, Dist. Jalgaon and under this Sub-Division three Talukas comes viz. Chopda, Yaval and Amalner.

(ii) The applicant while working on the post of Sub-Divisional Water Conservation Officer, Soil and Water

Conservation Sub-Division, Parola, Dist. Jalgaon, the work was sanctioned to his sub-division under the funds of District Planning Committed and under the control of District Water Conservation Officer, Jalgaon. The administrative approval was granted to the work of Gated Sathwan Bandhara, Fafore (Bk), Tq. Amalner and Gated Sathwan Bandhara, Mondhale P.U. Pimpri, Tq. Parola under the said fund. Out of these two works, one work was sanctioned in the Sub-Division of the applicant i.e. Sathwan Bandhara, Mondhale, P.U. Pimpri, Tq. Parola. The said work was completed under the supervision of the applicant and initially two bills were granted. Thereafter the applicant has submitted the third bill of Rs. 14,35,995/- of the work done by the contractor to the District Water Conservation Officer, Jalgaon on 13.05.2022 along with the measurement book. A copy of final bill along with measurement book is marked as Annexure-A-1 collectively.

(iii) The another work is sanctioned in the Chopda Sub-Division viz. Gated Sathwan Bandhara, Fafore (Bk), Tq. Amalner, where Mr. Murza Shabbir Ballyeyawala is transferred on the post Sub-Divisional Water Conservation

Officer, Soil and Water Conservation Sub-Division, Chopda, Dist. Jalgaon by transfer order dated 28.06.2022 (Annexure A-2). The Sub-Divisional Water Conservation Officer, Soil and Water Conservation Sub-Division, Chopda, Dist. Jalgaon has also submitted the third and final bill of Rs. 15,99,796/- of the work Gated Sathwan Bandhara, Fafore (Bk), Tq. Amalner, Dist. Jalgaon on 2.8.2022 to the District Water Conservation Officer, Jalgaon for its approval (Annexure A-3 collectively).

(iv) The applicant had submitted the said bill of Rs. 14,35,995/- to the District Water Conservation Officer, Jalgaon on 13.05.2022, but on 31.05.2022 the District Water Conservation Officer, Jalgaon issued letter to the Collector and Member Secretary, District Planning Committee, Jalgaon demanding the funds of Rs. 19,95,000/- in view of the completion of project work of Sathwan Bandhara, Mondhale, P.U. Pimpri, Tq. Parola. The Sub-Divisional Water Conservation Officer, Soil and Water Conservation Sub-Division, Chopda, Dist. Jalgaon has also submitted the third and final bill of Rs. 15,99,796/- of the work Gated Sathwan Bandhara, Fafore (Bk), Tq. Amalner, Dist. Jalgaon, but on 2.8.2022 the

District Water Conservation Officer, Jalgaon issued letter to the Collector and Member Secretary, District Planning Committee, Jalgaon demanding the funds of Rs. 31,75,000/- in view of the completion of the project work of Gated Sathwan Bandhara, Fafore (Bk), Tq. Amalner, Dist. Jalgaon (Annexure A-4 collectively).

(v) On 27.06.2022, the Collector and Member Secretary, District Planning Committee, Jalgaon has released the funds of Rs. 19,95,000/- to the District Water Conservation Officer, Jalgaon for completion of project work of Sathwan Bandhara, Mondhale, P.U. Pimpri, Tq. Parola as per the proposal of demands (Annexure A-5).

(vi) In view of completion of the work of Sathwan Bandhara, Mondhale, P.U. Pimpri, Tq. Parola, the District Water Conservation Officer, Jalgaon issued letter dated 29.06.2022 (Annexure A-6) to the respondents, thereby informed that the work of said project is completed in view of the revised administrative approval and the said work is completed by the concerned contractor 100% and the same is handed over to the concerned Grampanchayat and the water also stored in the said project.

(vii) On 04.08.2022, the Collector and Member Secretary, District Planning Committee, Jalgaon has also released the funds of Rs. 30,59,000/- to the District Water Conservation Officer, Jalgaon for completion of project work of Sathwan Bandhara, Fofore, (Bk). Tq. Amalner, Dist. Jalgaon as per the proposal of demands (Annexure A-7).

(viii) After completion of above said two projects, the false complaint is received to the Collector and concerned department. The District Collector, Jalgaon constituted the committee to enquire into the allegations made in respect of the said two works and directed to submit the enquiry report. The said enquiry committee submitted the report to the Collector Jalgaon on 15.09.2022. In view of the enquiry report, the District Collector and Member Secretary, District Planning Committee, Jalgaon issued letter dated 28.09.2022 (Annexure A-8) to the respondents and informed that the District Water Conservation Officer, Jalgaon has submitted the excess final bills for additional funds to him and demanded the additional amount without considering the original demands submitted by the applicant and another Sub-Divisional Officer, Soil and Water Conservation, Sub-Division, Chopda as per M.B. It

was also submitted the applicant had submitted third bill of Rs. 14,35,995/- to the District Water Conservation Officer, Jalgaon, but the District Water Conservation Officer, Jalgaon submitted the additional bill of Rs. 19,95,380/- to the Collector and therefore, there is irregularity of utilizing the additional amount of Rs. 5,59,005/- in the project completed by the applicant and amount of Rs. 14,58,759/- is additionally utilized in the Chopda Taluka. Therefore, further action will be taken and the same is under process.

(ix) In view of the said complaint, Legislative Assembly Question (LAQ) was raised in the Legislative Assembly by Shri Ajit Pawar (Amravati), M.L.A. and Shri Anil Apatil (Amalner) MLA and therefore, detailed information was submitted to the Regional Water Conservation Officer, Soil and Water Conservation Department Nashik by the District Water Conservation Officer, Jalgaon on 09.12.2022 (Annexure A-9 collectively) and informed that the enquiry is in progress. The applicant and District Water Conservation Officer, Jalgaon have submitted the detailed information of the projects completed by them and informed that there is no illegality in the work of construction and therefore, no action was taken on the complaints.

(x) On 18.02.2023 the respondent issued letter to the District Collector, Jalgaon and Regional Water Conservation Officer, Soil and Water Conservation Department, Nashik to supply the information of corruption of work of Water Conservation in Parola, Dist. Jalgaon immediately to discuss the issue in the Assembly. Thereafter, the said letter is forwarded to the District Water Conservation Officer, Jalgaon by the regional office and directed to submit the relevant documents in the office. The said subject was kept for discussion on 7<sup>th</sup> March in the Legislative Assembly. In view of the said directions, the Regional Water Conservation Officer, Soil and Water Conservation Department, Nashik issued letter dated 02.03.2023 to the respondents and submitted the detail reply of the work of water conservation done in the Parola Taluka and informed that the reply was submitted on 13.12.2022 to the Govt. It is informed that the committee was constituted by the Collector, Jalgaon and the enquiry report was submitted to the office of District Collector, Jalgaon on 16.01.2023 and there is no corruption in the work of Water Conservation in the Parola Taluka and due to shortage of funds from the Govt. the excess amount was



utilized and there is no bogus bills submitted (Annexure A-10 collectively).

(xi) On 01.03.2023, the respondent issued letter to the Collector, Jalgaon and Regional Water Conservation Officer, Soil and Water Conservation Department, Nashik and directed to submit the information of LAQ raised in the Legislative Assembly. On 02.03.2023, the Regional Water Conservation Officer, Soil and Water Conservation Department, Nashik issued letter to the respondent and submitted the detail information and reply to the LAQ to him (Annexure A-11 collectively).

(xii) After the enquiry, the complaints were made against the applicant for irregularity of work of Water Conservation in Parola Taluka in Lokshahi din on 03.10.2022 to the Agriculture Commissioner, Pune and therefore, primary enquiry was directed by the Additional Water Conservation and Chief Engineer, Soil and Water Conservation, Pune and the enquiry is conducted by the Murtuza Ballyewale, Sub-Divisional Water Conservation Officer, Jalgaon and submitted the report to the Additional Water Conservation and Chief Engineer, Soil and Water Conservation, Pune

through Regional Water Conservation Officer, Soil and Water Conservation Department, Nashik and therefore, issued the letter dated 21.02.2023 to the Regional Water Conservation Officer, Soil and Water Conservation Department, Nashik and informed that the case is finally closed as per the report. (Annexure A-12 collectively)

(xiii) LAQ was raised in the Legislative Assembly on 09.03.2023 about the irregularity of the work of two projects of Water Conservation in Jalgaon district viz. Sathwan Bandhara, Fafore (Bk), Tq. Amalner and Sathwan Bandhara, Mondhale P.U. Pimpri, Tq. Parola. The Hon'ble Minister replied that the concerned Dy Engineer will be suspended (Annexure A-13).

(xiv) The applicant has submitted application dated 08.03.2023 to the District Water Conservation Officer, Jalgaon and demanded the copy of enquiry report of the District Collector, Jalgaon. The enquiry report is supplied to the applicant by letter dated 09.03.2023 (Annexure A-14 collectively).

(xv) In view of the statement made by the Hon'ble Minister while answering the LAQ for suspension of the applicant,

the applicant submitted the email to the respondent and requested that the work of Fafora Bk. Comes in the Amalner Taluka and only one work is come under him i.e. Modhale, Tq. Parola, but he is held responsible for both the work which is contrary to the record. There is another officer working in Chopda Sub Division and no action is ordered against him. It is also requested that the District level officers and employees are held responsible for additional demand of the funds in the enquiry report and therefore, requested not to take action against him. The applicant also submitted the detail application dated 10.03.2023 to the respondent and others requesting therein that he is not responsible for the alleged irregularities. On 10.03.2023 separate application was submitted to the respondents by the applicant and requested not to suspend him. It is submitted that only one work is completed by him under his sub-division and another work is not under his control, which under the Chopda Sub-Division and therefore, only the applicant cannot be held responsible. (Annexure A-15 collectively).

(xvi) However, without considering the applications submitted by the applicant, the respondent No. 1 issued

suspension order dated 24.03.2023 of the applicant, thereby placing the applicant under suspension from the post of Sub-Divisional Water Conservation Officer, Soil and Water Conservation Sub-Division, Parola, Dist. Jalgaon in contemplation of the departmental enquiry against him. The said suspension order is issued as per the Rule 4(1)(A) of the Maharashtra Civil Services (Discipline and Appeal), Rules, 1979. It is submitted that the respondents have proposed the D.E. against the applicant. The Regional Water Conservation Officer, Soil and Water Conservation Department, Nashik issued letter dated 25.03.2023 to the District Water Conservation Officer, Soil and Water Conservation Division, Jalgaon and directed to serve the order dated 24.03.2023 (Annexure A-16 collectively). The impugned suspension order is illegal and liable to be dismissed and liable to be quashed and set aside.

(xvii) The respondents issued the Circular dated 28.08.2018 thereby published the duties and responsibilities of the Group-A officers in the department. The duties and responsibilities of the District Water Conservation Officer are given at page No. 11 of the said Circular and therefore the applicant cannot be held

responsible for demand of excess and additional amounts by the District Water Conservation Officer and utilized the said amount for other official expenses.

6. Learned counsel submits that the first enquiry was directed by the Collector, Jalgaon and the second enquiry was also directed by the Commissioner and the report was submitted and the complaints were disposed of being without any substance. Therefore, twice enquiry was conducted in the allegations against the applicant and it is found that the applicant is not responsible for any irregularity. Learned counsel submits that the present Original Application deserves to be allowed by directing the respondent No. 1 to forthwith revoke the order of suspension of the applicant and consequently reinstate him in service in light of the rule and ratio laid down by the Hon'ble Apex Court in the case of **Ajay Kumar Choudhary** (cited supra).

7. On the basis of affidavit in reply filed on behalf of respondent No. 1, learned Presenting Officer submits that on 22.08.2022 one Shri Vinod Deshmukh had filed his complaint to the Collector, Jalgaon making allegations against the District Water Conservation Officer, Jalgaon and his subordinate officers

about the alleged misappropriation of the District Planning Committee fund by District Water Conservation Officer, Jalgaon and his subordinate officers by purposefully submitting fake bills with regard to the final bill of Sathwan Bandhara Fafore (Bk), Tq. Amalner and Sathwan Bandhara Mondhale P.U. Pimpri, Tq. Parola.

8. Learned P.O. submits that in response to the said complaint, the Collector, Jalgaon has constituted three members committee by order dated 29.08.2022 and the said committee submitted its report to the Collector, Jalgaon on 15.09.2022. The Committee prima-facie came to the conclusion about the irregularities in final bill submission of the said project. Consequently, on the basis of the said report, the Collector, Jalgaon further submitted report to the Secretary, Soil and Water Conservation Department by letter dated 30.08.2022. In the said report, the Collector mentioned about misappropriation of rupees 14.60 lakhs in Sathwan Bandhara Fafore (Bk) Tq. Amalner and rupees 5.60 lakhs in Sathwan Bandhara Mondhale P.U. Pimpri, Tq. Parola by submitting excess demand than the actual work. By letter dated 26.12.2022, the respondent has instructed the Collector, Jalgaon to carry out special audit of both the schemes as per Enquiry Committee recommendation and submit final

report. Thus, the Collector, Jalgaon constituted three Members' Special Audit Committee by letter dated 16.01.2023 and on 22.02.2023 the said committee had submitted report along with their findings and noted various irregularities in the said report. In view of the same, on 06.03.2023 the respondent No. 1 instructed the Collector, Jalgaon to submit charge-sheet under the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 and to initiate the D.E. against the erring officers, who are responsible for these irregularities.

9. Learned P.O. submits that meanwhile budget session of Maharashtra Legislative Assembly, Hon'ble MLA Shri Anil Patil raised calling attention motion No. 698 regarding misappropriation of funds and irregularity in demands by the District Water Conservation Officer, Jalgaon and Sub-Divisional Water Conservation Officer, Parola. During the course of discussion, the department had assured the Legislative Assembly to conduct the departmental enquiry to find out as to who is responsible for irregularities and suspend them for the irregularities.

10. Learned P.O. submits that in contemplation of departmental enquiry against the applicant, the respondent No. 1

has suspended the applicant under Rule 4(1)(A) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 by order dated 24.03.2023. Learned P.O. submits that in view of the facts and circumstances explained hereinabove, there is no merit in the present Original Application and the same deserves to be dismissed with costs.

11. Admittedly, the applicant was suspended on 24.03.2023. It is also not disputed that the applicant was placed under suspension by respondent in contemplation of disciplinary action against him by invoking the power under rule 4(1)(A) of the Maharashtra Civil Services (Discipline and Appeal) Rule, 1979. It is a sordid state of affair that the applicant is still under suspension without following mandate of the G.R. dated 14.10.2011 and also G.R. dated 09.07.2019, which G.R. came to be issued in terms of the ratio laid down by the Hon'ble Apex Court in the case of **Ajay Kumar Choudhary** (cited supra), dated 16.02.2015. It is therefore utmost essential to refer the ratio laid by the Hon'ble Apex Court in the case of **Ajay Kumar Choudhary Vs. Union of India**, reported in **2015(2) JT 487/ AIR 2015 SC 2389**. In para No. 14, the Hon'ble Supreme Court has made the following observations and laid down ratio to the effect that the currency of a suspension order should not extend beyond three



months, if within this period of memorandum of charges / charge-sheet is not served on the delinquent officer/employee, which reads as under :-

*“14. We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges /Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/ Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.”*

12. On the basis of the aforesaid judgment of the Hon'ble Apex Court, the State of Maharashtra issued G.R. dated 09.07.2019 and issued following directives. The relevant portion of the said directives are reproduced under :-

“२. मा.सर्वोच्च न्यायालयाने वरीलप्रमाणे दिलेल्या दि. १६.०२.२०१५ च्या निर्णयाचे अनुषंगाने केंद्र सरकारचा दि. २३ ऑगस्ट, २०१६ रोजीचा कार्यालयीन आदेश सोबत जोडला आहे. मा. सर्वोच्च न्यायालयाचा निर्णय व केंद्र सरकारचा कार्यालयीन आदेश पाहता निलंबित शासकीय कर्मचा—यांना ९० दिवसांच्या मुदतीत

दोषारोप पत्र बजावून त्यांच्या निलंबनाच्या आढाव्या संदर्भात तरतुदी सुधारण्याची बाब शासनाच्या विचाराधीन होती.

**शासन निर्णय:—**

१. या अनुषंगाने शासकीय कर्मचाऱ्यांच्या निलंबनाचा आढावा घेण्यासंदर्भात पुढीलप्रमाणे सूचना देण्यात येत आहेत.

i) निलंबित शासकीय सेवकांच्या ज्या प्रकरणी ३ महिन्यांच्या कालावधीत विभागीय चौकशी सुरू करून दोषारोप पत्र बजावण्यात आले आहे, अशा प्रकरणी निलंबन केल्यापासून ३ महिन्यात निलंबनाचा आढावा घेऊन निलंबन पुढे चालू ठेवावयाचे असल्यास त्याबाबतचा निर्णय सुस्पष्ट आदेशासह (कारण मिमांसेसह) सक्षम प्राधिकाऱ्यांच्या स्तरावर घेण्यात यावा.

ii) निलंबित शासकीय सेवकांच्या ज्या प्रकरणी ३ महिन्यांच्या कालावधीत विभागीय चौकशी सुरू करून दोषारोप पत्र बजावण्यात आले नाही, अशा प्रकरणी मा. सर्वोच्च न्यायालयाचे आदेश पाहता, निलंबन समाप्त करण्याशिवाय अन्य पर्याय राहत नाही. त्यामुळे निलंबित शासकीय सेवकांबाबत विभागीय चौकशीची कार्यवाही सुरू करून दोषारोप पत्र बजावण्याची कार्यवाही निलंबनापासून ९० दिवसांच्या आत काटेकोरपणे केली जाईल याची दक्षता/खबरदारी घेण्यात यावी.

iii) फौजदारी प्रकरणात विशेषतः लाचलुचपत प्रकरणी निलंबित शासकीय सेवकांवर विभागीय चौकशी सुरू करून दोषारोप पत्र बजावणेबाबत आवश्यक तो अभिलेख लाचलुचपत प्रतिबंधक विभागाने संबंधीत प्रशासकीय विभागास उपलब्ध करून देणे आवश्यक राहिल.

या आदेशातील तरतुदींमुळे या विषयावरील संदर्भ १ व २ येथील आदेशांतील तरतुदी या आदेशाच्या मर्यादित सुधारण्यात आल्या आहेत असे समजण्यात यावे.”

13. In view of the aforesaid G.R., it is clear that if the Departmental Enquiry is not commenced against the delinquent/employee by serving upon him charge-sheet within a period of 90 days, there would be no alternative but to revoke the suspension.

14. In a case of **Ramesh A. Kagne Vs. The State of Maharashtra and Ors.** in O.A. No. 432/2022, the Vice Chairman of Maharashtra Administrative Tribunal, Bench at Aurangabad has referred the ratio laid down in the case of **Ajay Kumar Choudhary** (cited supra) by the Hon'ble Apex Court and disposed of the Original Application by the order 18.11.2022 with the similar directions.

15. Thus considering the facts involved in the present case and in view of the ratio laid down by the Hon'ble Apex Court in the case of **Ajay Kumar Choudhary** (cited supra) and in terms of the G.R. dated 09.07.2019, the suspension of the applicant being illegal and liable to be quashed and set aside forthwith. Hence, the following order :-

**ORDER**

- (i) The Original Application is hereby partly allowed in terms of prayer clause X(B) and X(C) to the extent of revocation of suspension order dated 24.03.2023.
- (ii) So far as the issue as to whether the applicant is entitled for all consequential benefits is concerned, for the same, the applicant may file an application before the respondent

authorities in terms of Rule 72 of the Maharashtra Civil Services (Joining Time, Foreign Service and Payments during Suspension, Dismissal and Removal) Rules, 1981 as and when the occasions arises.

- (iii) In the circumstances, no order as to costs.
- (iv) The Original Application stands disposed of in the aforesaid terms.

**PLACE : Aurangabad.**  
**DATE : 09.01.2023**

**(Justice V.K. Jadhav)**  
**Member (J)**

**KPB S.B. O.A. No. 260 of 2023 VKJ Suspension**