

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 873 OF 2023

DISTRICT:- AURANGABAD

Sunil Gahanaji Jadhav,

Age-56 years, Occu. Service as
Senior Clerk, (At present Suspended),
R/o: Plot No. 32, Monali Communication,
Near Aher Hospital, Jadhavwadi,
Surewadi, Aurangabad. ..

APPLICANT

V E R S U S

- 1) The State of Maharashtra,**
Through : The Secretary,
Agriculture, Animal Husbandry,
Dairy Development & Fishery
Department, Hutatma Rajguru
Chowk, Madam Cama Marg,
Mantralaya, Mumbai-32.
- 2) The Commissioner of Agriculture,**
Agriculture Commissionerate,
Central Building, 2nd floor,
Maharashtra State, Pune-5.
- 3) The Joint Director of Agriculture,**
Aurangabad Division, Near Kranti
Chowk, Adalat Road,
Aurangabad.
- 4) The District Superintendent**
Agriculture Officer, Aurangabad
Near Shanoormiya Darga Chowk,
Aurangabad. ..

RESPONDENTS

APPEARANCE : Shri Kakasaheb B. Jadhav, learned
counsel for the applicant.

: Smt. Resha S. Deshmukh, learned
Presenting Officer for the respondent
authorities.

CORAM : **JUSTICE SHRI V.K. JADHAV, MEMEBR (J)**

DATE : **27.03.2024**

ORAL - ORDER

Heard Shri Kakasaheb B. Jadhav, learned counsel for the applicant and Smt. Resha S. Deshmukh, learned Presenting Officer for the respondent authorities.

2. By consent of both the parties, this Original Application has been taken up for final disposal at the stage of admission itself.

3. On instructions, learned counsel for the applicant submits that in view of the authoritative pronouncement of Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary Vs. Union of India through its Secretary & Anr., Civil Appeal No. 1912/2015 (arising out of SLP No. 31761/2013)**, the applicant is pressing prayer clause 'C' only. Learned counsel submits that in connection with this, the Government has also issued Government Resolution dated 09.07.2019 by referring the authoritative pronouncement by the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary** (cited supra). Learned counsel submits that respondent Nos. 2 & 3 shall be directed to revoke the suspension order dated 29.07.2017 forthwith and to

reinstate the applicant on the post of Senior Clerk in the office of respondent No. 4. Learned counsel further submits that liberty may be granted to the applicant to claim all the consequential benefits pertaining to the said suspension period and in terms of prayer clause 'D' to file appropriate representation before the authority.

4. Learned Presenting Officer submits that the applicant came to be suspended by order dated 29.07.2017 in contemplation of the Departmental Enquiry so also for the reason that the applicant came to be arrested in connection with the crime registered against him. After 31.1.2019 the charge sheet was served on the applicant in connection with the Departmental Enquiry. The Departmental Enquiry & criminal proceeding initiated against the applicant are still pending

5. The Hon'ble Apex Court in paragraph 14 of the case of **Ajay Kumar Choudhary** (cited supra) has observed thus:

“14. We, therefore, direct that the currency of a suspension order should not extended beyond three months if within this period the Memorandum of Charges/Charge-sheet is not served on the delinquent officer /employee, if the Memorandum of Charges / Charge-sheet is served, a reasoned order must be passed for the extension of the suspension.”

6. It is the mandate of the Hon'ble Supreme Court that currency of a suspension order should not extend beyond three

months if within this period the Memorandum of Charges/Charge-sheet is not served on the delinquent officer/employee. In the instant matter the memorandum of charge is not only served on the applicant within the said period of 90 days, however, it appears that it has been served on the applicant after lapse of two years. It appears that the respondent authorities have not followed the provisions of G.R. dated 09.07.2019, wherein the authoritative pronouncement of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary** (cited supra) is referred for issuance of the said G.R.

7. In view of above, there is no hurdle, as such, to allow this Original Application to the extent of prayer clause 'C'. Insofar as other prayers are concerned, as submitted by the learned counsel for the applicant the applicant would be at liberty to file appropriate representation before the respondent authorities and respondent authorities may pass appropriate orders on the same in accordance with the law, as expeditiously as possible. Hence, the following order: -

ORDER

- (i) The Original Application is hereby partly allowed.

(ii) Respondent Nos. 2 & 3 are hereby directed to revoke the suspension order dated 29.07.2017 passed against the applicant forthwith and reinstate the applicant on the post of Senior Clerk in the office of respondent No. 4.

(iii) The applicant is at liberty to file representation claiming all the consequential benefits such as salary and allowances from the date of suspension order in terms of G.R. dated 09.07.2019 issued by the General Administration Department, Mantralaya, Mumbai.

(iv) Accordingly, the Original Application stands disposed of however, without any order as to costs.

MEMBER (J)