

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO 1566 OF 2023**

DISTRICT : MUMBAI

Dr Shashank W. Kamble)
Occ – Service,)
R/o: 2804, Corona-A, Dosti Imperia)
Chitalsar, Manpada, Thane [W].)...**Applicant**

Versus

1. The State of Maharashtra)
Through Chief Secretary,)
Government of Maharashtra)
CS Office, Main Building,)
Mantralaya, 6th floor,)
Madam Cama Road,)
Mumbai 400 032.)
2. Additional Chief Secretary,)
Administration Department,)
Government of Maharashtra,)
Madam Cama Road,)
Mantralaya, Mumbai 400 032.)
3. Secretary,)
Animal Husbandry & Dairy)
Development Department,)
Government of Maharashtra,)
Madam Cama Road, Mantralaya)
Mumbai 400 032.)...**Respondents**

Shri Prajapati Nirmeshkant, learned advocate for the Applicant.

Shri A.J Chougule, learned Presenting Officer for the Respondents.

CORAM : Mrs Medha Gadgil (Member) (A)

DATE : 21.12.2023

J U D G M E N T

1. The applicant challenges his suspension order dated 31.8.2023, invoking Rule 4(1)(c) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979.

2. Learned counsel submits that the applicant worked as Divisional Manager at Frozen Semen Centre, Aurangabad under Maharashtra Live Sock Development Board and Autonomous Organization from 1.6.2017 to 22.4.2021. Learned counsel submits that he was placed under suspension by order dated 31.8.2023 on the basis of Audit Report regarding irregularities during his tenure. The details of the alleged irregularities are as under:-

वसुलपात्र रक्कम दोषारोपनिहाय खालीलप्रमाणे निश्चित होत आहे-

दोषरोप क्र.	बाब	वित्तीय अनियमितता/अपहारीत रक्कम
४-अ	वळू विक्री व शेणखत विक्री	रु.८,४०,५००
४-आ	रेतमात्रा विक्री	रु.१,६५,१२७/- व रु. २,१५,४२५/-
५	वेतन देयके	रु. २०,७१,६१५
६-अ	आकस्मिक खर्चाचे धनादेश	रु.८,४७,८८५/-
६-आ	धनादेश वाटलेले नाहीत	रु. १,२३,९५५
६-इ	अनुज्ञेय टीडीएस कपातीची रक्कम	रु.९,४२,७८०/-
६-ई	व्यक्ती पुरवठादार व संस्था यांना धनादेशाद्वारे रक्कम अदा	रु.८,६१,११३/-
६-उ	वरंवार सीसीटीव्ही दुरुस्तीची	रु.३,०५,८६२/-
६-ऊ	मुळ प्रमाणके पडताळणी न करता धनादेशाद्वारे रक्कम अदा	रु.५,१३,६०६/-
७	बनावट प्रमाणके	रु.१९,८०,९२३/-
८	विभागीय व्यवस्थापक यांचे नावे रकमा जमा करणे	रु.४,३०,६३५/-
९	देयक कमांक ६८८	रु.९९,५१३/-
	एकूण	रु.९३,९८,९३९/-

वरील एकूण रक्कम रु.९३,९८,९३९/- ही वित्तीय अनियमितता स्वरूपात शासकीय निधीचा अपव्यय व अपहार झालेला असल्याने व याप्रकरणी आर्थिक व्यवहार सांभाळणारे संबंधित आहरण व संवितरण अधिकारी व रोखपाल या दोघांनी संगनमताने सदर कृती केल्याने उक्त रक्कम व त्यावरील परिगणित होणारे व्याज याकरिता दोघेही समान पातळीवर वसुलपात्र रक्कमेकरिता जबाबदार आहेत.

3. Learned counsel for the applicant states that although the applicant was suspended on 31.8.2023, no charge sheet was issued against him within a period of 3 months as laid down in the G.R dated 9.7.2019, the relevant portion of which reads as under:-

9. या अनुषंगाने शासकीय कर्मचा-याच्या निलंबनाचा आढावा घेण्यासंदर्भात पुढीलप्रमाणे सूचना देण्यात येत आहेत.
- i) निलंबित शासकीय सेवकांच्या ज्या प्रकरणी ३ महिन्यांच्या कालावधीत विभागीय चौकशी सुरु 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 प्राधिका-याच्या स्तरावर घेण्यात यावा.
 - ii) निलंबित शासकीय सेवकांच्या ज्या प्रकरणी ३ महिन्यांच्या कालावधीत विभागीय चौकशी सुरु 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 सुरु 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 सुरु करून दोषारोप पत्र बजावणेबाबत आवश्यक तो अभिलेख लाचलुचपत प्रतिबंधक विभागाने संबंधीत प्रशासकीय विभागास उपलब्ध करून देणे आवश्यक राहिल.

4. Learned counsel for the applicant further relied on the ratio of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary Vs. Union of India, (2015) 7 SCC 291, and submitted that suspension beyond the period of 90 days is impermissible in law if no charge was issued during that period. He further pointed out that the Review Committee in terms of G.R dated 14.10.2011, 30.1.2015 and 9.7.2019 has not been constituted. He, therefore, prays to revoke the suspension of the applicant and with direction to reinstate the applicant in service. Learned counsel further pointed out that the applicant is retiring on 31.12.2023.

5. Per contra, Shri A.J Chougule, learned P.O for the Respondents pointed out that the charges against the applicant are very serious and a departmental enquiry has been proposed

against him and charges sheet for the same was served on the applicant on 20.12.2023. Learned P.O states that in view of the gravity of the charges against the applicant, his suspension may not be revoked.

6. In this matter, admittedly, the charge sheet has not been served on the applicant within the stipulated period of 3 months as laid down in the G.R dated 9.7.2019. Moreover, the legal position in respect of prolonged suspension is no more *res integra* in view of the judgment of the Hon'ble Supreme Court in the case of Shri Ajay Kumar Choudhary (*supra*). It is, therefore, appropriate to reproduce the relevant paragraph of the said judgment.

“21. We, therefore, direct that the 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; if the memorandum of charges/charge sheet 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 person concerned 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 prepared 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 the 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.”

7. In view of the fact that the applicant is retiring on 31st December, 2023, I pass the following order.

ORDER

- (A) The Original Application is partly allowed.
- (B) The Respondents are directed to place the matter before the Review Committee before 31.12.2023, to take decision about continuation or revocation of the suspension of the Applicant and pass appropriate order and communicate the same to the Applicant before 31.12.2023.
- (C) No order as to costs.

Sd/-
(Medha Gadgil)
Member (A)

Place : Mumbai
Date : 21.12.2023
Dictation taken by : A.K. Nair.