

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 204 of 2021 (S.B.)**

Abhimanyu s/o Vithoba Khandwaye,  
Aged 59 years, Occupation: Retired,  
R/o At Po. Chikhli (Tartola),  
Tq. Kurkheda, District Gadchiroli

**Applicant.**

**Versus**

- 1) State of Maharashtra, through its  
Principal Secretary,  
Revenue and Forest Department,  
Mantralaya, Mumbai-32.
- 2) Collector,  
Collector's Complex, Gadchiroli-442605.
- 3) Sub Divisional Officer,  
Near Bus Stop, Dhanora Road,  
Gadchiroli-442605.
- 4) Tahsildar, Dhanora, Dist. Gadchiroli-442605.
- 5) Accountant General of Maharashtra-II,  
Pension Wing, Old Building Civil Lines,  
Nagpur-440001.

**Respondents.**

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**Shri R.M. Fating, Advocate for the applicant.**  
**Shri M.I. Khan, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated :- 11/12/2023.**

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**JUDGMENT**

Heard Shri R.M. Fating, learned counsel for the applicant  
and Shri M.I. Khan, learned P.O. for the respondents.

2. The applicant was working as a Talathi. The applicant remained absent and therefore he was suspended as per the order dated 29/04/2013. The respondents have issued the charge sheet on 14/05/2013. Thereafter on 27/03/2015 the suspension was revoked. The applicant submitted Voluntary Retirement Scheme (V.R.S.) application on 17/04/2016. After completion of 90 days as per rules, the said V.R.S. application was accepted by the Collector / Sub Divisional Officer, Gadchiroli as per the order dated 16/08/2016. The provisional pension case was submitted to the A.G. office, but it was not accepted. The A.G. office written a letter to the respondents / appointing authority dated 16/09/2019 directing the respondents to submit fresh regular pension case after completing the departmental inquiry. The respondents have not completed the departmental inquiry. They have submitted fresh regular pension case to the A.G. office. The respondents are paying the regular pension. The respondents have passed order dated 03/05/2021 by which the suspension period of applicant from 29/04/2013 to 31/03/2015 is treated as it is. Therefore, the applicant approached to this Tribunal.

3. The learned counsel for applicant Shri R.M. Fating has not pressed the relief clause nos. (i), (ii), (iii) and (iv) and prayed amended prayer clause nos. (iii) (a) and (iii) (b) and (v) which is as under –

*“(iii)(a) Quash and set aside the order dated 03.05.2021 issued by the respondent no.3-SDO, Gadchiroli, thereby treating suspension period 29.04.2013 to 31.03.2015 as 'suspension' without there being any inquiry or proven charges against the applicant, in the interest of justice.”*

*(iii) (b) Direct the respondent no.3-SDO, Gadchiroli to issue necessary order treating suspension period 29.04.2013 to 31.03.2015 as a period spent on duty for all purposes.*

*(v) Grant any other relief which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the present case and in the interest of justice.”*

4. The O.A. is strongly opposed by respondent nos.2 to 4. It is submitted that the applicant was absent for a long period and therefore he was suspended. The respondents' authority has decided to revoke the suspension period. As per the order dated 03/05/2021 the respondents have decided to treat the suspension period as it is. Hence, the O.A. is liable to be dismissed.

5. During the course of submission, the learned counsel for applicant has submitted that without any departmental inquiry the suspension period cannot be treated as such. The said period is to be treated as duty period. In support of his submission pointed out the decision of this Tribunal in O.A.No.301/2022, dated 25/11/2022.

6. Heard learned P.O. for the respondents Shri M.I. Khan. As per his submission, the applicant was absent for a long period and therefore departmental inquiry was initiated. It is for the respondents

to decide the suspension period. The respondents have decided not to treat the suspension period as a duty period. Hence, the O.A. is liable to be dismissed.

7. During the course of submission, Id. counsel for applicant has pointed out Rule 72 (3) of the Maharashtra Civil Services (Joining time, Foreign Service and Payments During Suspension, Dismissal and Removal) Rules, 1981 and submitted that nothing is on record to show that the applicant was at fault to delay departmental inquiry, etc. Therefore, it was for the respondents to decide the suspension period as a duty period. There is no dispute that the authority is at liberty to decide the suspension period as per Rule 72 of the Maharashtra Civil Services (Pension) Rules, 1982 and as per Rule 73 of the Maharashtra Civil Services (Joining time, Foreign Service and Payments During Suspension, Dismissal and Removal) Rules, 1981, liberty is granted to the authority to decide the suspension period. There should be some reason for not treating the suspension period as a duty period. The respondents have accepted the V.R.S. application of the applicant. The respondents have submitted the pension case. The applicant is getting regular pension. The applicant is deprived of the pension of suspension period. There is no reason for the respondents to treat the suspension period as such. There is no dispute that the respondents have not conducted inquiry against

the applicant. During the pendency of inquiry, the applicant had submitted V.R.S. application. It was for the respondents' authority not to accept the V.R.S. application and complete the departmental inquiry before accepting the V.R.S. application. Once the V.R.S. application is accepted, then the respondents cannot say that the suspension period shall not be treated as duty period. Without any departmental inquiry, without proving the misconduct on the part of the applicant, the respondents cannot say that suspension period shall be treated without duty period. Hence, the following order –

**ORDER**

(i) The O.A. is allowed.

(ii) The suspension period from 29/04/2013 to 31/03/2015 shall be treated as a 'duty period'.

(iv) The respondents are directed to pay all the consequential benefits (for all purposes including pension etc.) within a period of four months from the date of receipt of this order.

(v) No order as to costs.

**Dated** :- 11/12/2023.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

\*dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 11/12/2023.