

THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.232 OF 2016

DISTRICT: NASHIK

Shri Satish Adinathrao Trimukhe)
Address : C/o. O/o. Divisional Joint Registrar)
Co-operation, (Audit),)
Nashik Division, Nashik 422 001) Applicant

Versus

The State of Maharashtra,)
Through Secretary (Co-operation),)
Co-operation, Marketing & Textile Department,)
Mantralaya, Mumbai 400 032)Respondent

Shri C.T. Chandratre, the learned Advocate for the Applicant.

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

CORAM : JUSTICE SHRI A.H. JOSHI, CHAIRMAN

DATE : 30.03.2016.

J U D G M E N T

- 1 Case was taken up for hearing on production of record.
- 2 Considering the fact that case is to be decided only on the basis of record, filing of affidavit by the Respondent is dispensed with.
- 3 Heard Shri C.T. Chandratre, the learned Advocate for the Applicant and Shri A.J. Chougule, the learned Presenting Officer for the Respondent.
- 4 Applicant has been suspended by order dated 25.02.2016. Suspension is ordered in exercise of powers under Rule 4(1) of Maharashtra Civil Services (Discipline and Appeal) Rules, 1979.



5. The record relating to decision of suspending, reveals that a proposal for applicant's suspension has been moved by the Commissioner of Co-operation by his letter dated 11.11.2014.
6. The perusal of record reveals that the accident occurred on 13.10.2014 where the car driven by the Applicant allegedly in rash and negligent manner and on the wrong side etc., dashed a motor cycle wherein three persons who were riding on the motor cycle had suffered injuries and had died.
7. It is seen that the copy of F.I.R. was on record. No other documents or report was called either by the Commissioner of Co-operation or by the Government from the Investigating Officer.
8. The incident is dated 13.10.2014. The arrest and release occurred on 01.11.2014. The proposal of suspension was moved by Commissioner of Co-operation on 14.11.2014. The decision to suspend the Applicant is taken by the Government on 24.02.2016 after seeking advice/ reviews from the G.A.D..
9. The learned Advocate Shri C.T. Chandratre for the Applicant had tendered for perusal a copy of charge-sheet (final report) filed against the applicant in the said case of accident, filed on 27.01.2015.
10. During his oral submissions, learned Advocate Shri C.T. Chandratre emphasized on following points :-
 - (a) In the present case, the decision regarding suspension of the applicant is taken without application of mind, without looking into investigation papers and / or the charge-sheet etc..
 - (b) Only because power to suspend exists it does not essentially follow that suspension must be ordered.
 - (c) Moreover, whether the suspension is justified on lodgement of a criminal case will vary from case to case and justiciability of such decision has to be tested on the basis of record.
11. The record shows that no efforts were made to ascertain the following points :-
 - (a) What are the imputations against the Applicant ?
 - (b) Whether there are eye witnesses ?
 - (c) What is the stage of investigation / trial ?

12. Learned Advocate Shri C.T. Chandratre has relied on the judgment of Division Bench of Andhra Pradesh High Court in the case of P. Rajender Versus Union of India and Another, Writ Petition No.23394 of 2000, decided on 27.1.2001 reported in 2001(3)SLR in support of his submissions which are recorded in foregoing paragraph No.10.

13. Both points urged by applicant are squarely covered by the judgment in case of P. Rajender supra as is apparent from paragraphs no.8, & 14 to 17 of report thereof.

14. Though it is seen that the approval of G.A.D. was taken, it is not shown as to why it took almost two years to take action of suspension. The delay has in fact defeated the object of suspension.

15. The points urged and which are recorded in foregoing in paragraph No.11 shown to be legally sound and factually correct. It is seen that the suspension is ordered as ritual. It is true that the power to suspend exists however facts must impel suspension, which is not emerging from record. Lives which were lost were precious, but suspension is neither necessary or warranted.

The conduct does not relate to work or to integrity or moral turpitude either. Thus, the suspension is ordered just because it is permissible

16. Result is that, ex-facie, the suspension is ordered without application of mind, without recording satisfaction that facts warrant the action, and is frustrated due to delay and hence it cannot be sustained.

17. In the result O.A. succeeds. Impugned order of suspension is quashed and set aside. Consequential orders of reinstating the applicant be issued within one month.

18. Parties shall bear own costs.

Sd/-

(A.H. Joshi, J.)
Chairman