

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 277 / 2020 (S.B.)**

Naresh S/o Alwander Polani, Aged about 57 years,
Working as Inspector of Motor Vehicle, R/o Nagpur.

Applicant.**Versus**

- 1) The State of Maharashtra,
Through it's Secretary,
Home (Transport) Department,
Mantralaya, Mumbai- 400 032,
- 2) Regional Transport Office, Through the Regional Transport Officer,
Nagpur Region, Nagpur.

Respondents

Shri M.M.Sudame, the Id. Advocate for the applicant.

Shri H.K.Pande, the Id. P.O. for the respondents.

Coram :- Hon'ble Shri Shree Bhagwan, Vice Chairman.

JUDGMENT

Judgment is reserved on 26th October, 2020.

Judgment is pronounced on 05th November, 2020.

Heard Shri M.M.Sudame, Id. counsel for the applicant and Shri H.K.Pande, Id. P.O. for the respondents.

2. The applicant is a graduate. He belongs to O.B.C. category. Upon being selected by Maharashtra Public Service Commission for the post of Assistant Inspector of Motor Vehicle, he was appointed by the Government of Maharashtra w.e.f. 23.03.1986.

3. The applicant's was promoted as Inspector of Motor Vehicle in the year 2001. As Inspector of Motor Vehicle, the applicant served Govt. of Maharashtra at Mumbai (C), Nagpur, Solapur, Chandrapur, Nagpur (Gramin), Kolhapur, Mumbai (West) and ultimately he came to be posted at Nagpur (City) in May, 2018.

4. The applicant was apprehended by Inspector of Police, Nagpur City Police Station on 07.02.2020 at 22.30 hours where he was in his office discharging duties as Inspector of Motor Vehicle on the complaint of an unknown person, Abdul Basit Ali of Indore, M.P., it was alleged falsely that the applicant accepted Rs. 60,000/- from him as illegal gratification while same was amount of fine, he was liable to pay for violation of Motor Vehicles Act and Rules. The F.I.R. having been registered on 07.02.2020, the applicant was taken in police custody and was released on bail on 11.02.2020. Thus, the applicant being in Police custody for more than 48 hours, he was deemed to have been placed under suspension w.e.f. 07.02.2020.

5. As submission made by the Id. Counsel for the applicant in para no. 9 of the O.A. taking the date of suspension from 07.02.2020, the 90 days is completed on 07.05.2020 and till that time no chargesheet has been served under Departmental Enquiry. At the same time no criminal chargesheet has been filed in court of law.

6. Respondents have filed their reply on 14.07.2020 and in para no. 13 of the reply following facts are admitted by the respondents:-

"It is admitted that the Government of Maharashtra has issued guidelines regarding suspension to be continued beyond 03 months vide Government Resolution dated 09.07.2019. It is also admitted that the chargesheet of departmental enquiry is not served to the applicant within stipulated time as mentioned in this guideline. Though the respondents had not able to follow the said guideline."

7. In para no. 18 of the reply respondents have submitted following details:-

"It is humble submitted that the cause of action in the said matter has arisen on grounds of registration of criminal offence by the Police Department against the applicant and on the basis of the report submitted by the Superintendent of Police, Anti Corruption Bureau, Nagpur Division. Thus, the prayer of the applicant for quashing and

setting aside the order of his suspension may not be allowed and same needs to be rejected."

8. By the reply para nos. 13 & 18, it clearly appears that respondents have not followed the various Judgment of Hon'ble Apex Court as well as Government of Maharashtra G.A.D., G.R. Dated 09.07.2019 decision in para no. 1 (ii).

9. After hearing pleadings of both the sides various of Judgments of Hon'ble Apex Court and Hon'ble High Court and Government of Maharashtra G.Rs. were also considered.

(i) The Apex Court in Civil Appeal No. 1912 of 2015 (arising out of SLP No.31761 of 2013) in the case of Ajay Kumar Chaudhary Vs. Union of India through its Secretary and another in its Judgment dated 16/02/2015 in para no. 14, it has observed that :-

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.

(ii) The Hon'ble Apex Court in its Judgment in Civil Appeal No. 8427-8428 of 2018 (Arising out of S.L.P. (Civil) No. 12112-12113 of 2017) in the case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** in its para no. 24 had observed as follows:-

*24. This Court in **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** has frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first Respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first Respondent in a non sensitive post.*

(iii) The Principal Bench of Maharashtra Administrative Tribunal Mumbai Bench in O.A. No. 35/2018 Judgment delivered on 11/09/2018 has also rejected continuation of suspension beyond 90 days.

(iv) The Government of Maharashtra has issued G.R. dated 09/07/2019 (Annexure-A-4, Pg. No. 34). The Id. Counsel for the applicant has relied on para no. (ii) of the said G.R. on Pg. No. 35.

(v) The Hon'ble High Court of Bombay, Bench at Nagpur in W.P. No. 7506/2018, Judgment delivered on 17.07.2019 (Annexure-A-6, Pg. No. 47), was also on same principle. It has observed in para no. 2 that **facts of this case are squarely covered by Government Resolution G.A.D. dated 09/07/2019.**

(ii) fuyfcr 'kkl dh; I dcll; k T; k idj .kh 3 efgU; kpk dkyko/khr foHkxh; pkcl'kh l q d: u nskkjk i = ctko.; kr vkys ukgh] v'kk idj .kh ek- l okp U; k; ky; kpsvns k i kgrk] fuyæu l ektr dj.; kf'kok; vU; i; k; jkgr ukgh- R; keGsfuyfcr 'kkl dh; I dcll; k T; k idj .kh 3 efgU; kpk dkyko/khr foHkxh; pkcl'kh l q d: u nskkjk i = ctko.; kph dk; bk; h fuyæuki kl u 90 fno l l; k vkr dkVclj i .ksdsh tkbÿ ; kph n{krk [kcjnkjh ?s; kr ; koh-

(vi) The Government of Maharashtra vide its G.R. G.A.D. 'kkl u fu.kz dz 118@izdz11@11v] fnoel 09-07-2019 in para nos. 1 (i, ii & iii) following decisions have been taken :-

- i) fuyfcr 'kkl fd; I dcll; k T; k idj .kh 3 efgU; kpk dkyko/khr foHkxh; pkcl'kh l q d: u nskkjk i = ctko.; kr vkysvkgh] v'kk idj .kh fuyæu dÿ; ki kl u 3 efgU; kr fuyæukpk vk<kok ?knu fuyæu i æspkyw Boko; kpsv l Y; kl R; kckcrpk fu.kz I i "V vknskl g %dkj .k feela d g½ u{ke i kf/kcll; k; k Lrjkj ?s; kr ; kok-
- ii) fuyfcr 'kkl dh; I dcll; k T; k idj .kh 3 efgU; kpk dkyko/khr foHkxh; pkcl'kh l q d: u nskkjk i = ctko.; kr vkysukgh] v'kk idj .kh ek- l okp U; k; ky; kpsvns k i kgrk] fuyæu l ektr dj.; kf'kok; vU; i; k; jkgr ukgh- R; keGsfuyfcr 'kkl dh; I dcll; k T; k idj .kh 3 efgU; kpk dkyko/khr foHkxh; pkcl'kh l q d: u nskkjk i = ctko.; kph dk; bk; h fuyæuki kl u 90 fno l l; k vkr dkVclj i .ksdsh tkbÿ ; kph n{krk [kcjnkjh ?s; kr ; koh-
- iii) Qkstkjh idj .khr fo'kskr%ykpyir idj .kh fuyfcr 'kkl dh; I dcll; k T; k idj .kh 3 efgU; kpk dkyko/khr foHkxh; pkcl'kh l q d: u nskkjk i = ctko.kckcr vlo'; d rlsvHky[k ykpyir i frclkd foHkxkustl æi/kr izkl dh; foHkxk mi yC/k d: u nskk vlo'; d jkfy-

10. This O.A. is squarely covers by Government of Maharashtra G.A.D. G.R. 'kkl u fu.kz dz 118@izdz11@11v] fnoel 09-07-2019. Apart from this, this O.A. is also covered by Hon'ble Apex Court Judgment, which is below:-

(ii) The Hon'ble Apex Court in its Judgment in Civil Appeal No. 8427-8428 of 2018 (Arising out of S.L.P. (Civil) No. 12112-12113 of 2017) in the case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** in its para no. 24 had observed as follows:-

*24. This Court in **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** has frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first Respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first Respondent in a non sensitive post.*

11. In view of discussions in foregoing paras, the O.A. requires to be partly allowed in terms of relief clause no. 9 of the O.A.. Hence, following order:-

ORDER

- A. O.A. is partly allowed.
- B. O.A. is allowed in terms of relief sought 9 (C) to the extent of revocation of suspension only.
- C. The respondents are further directed to issue suitable posting order as per the guidelines mentioned in para no. 24 of Hon'ble Apex Court Judgment in case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018.**
- D. No order as to costs.

(Shri Shree Bhagwan)
Vice Chairman

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

Name of Steno : Akhilesh Parasnath Srivastava.
Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 05/11/2020.
and pronounced on

Uploaded on : 06/11/2020.