

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 411 /2014
WITH CIVIL APPLICATION NO.362 / 2016

Gopal Raghunath Yadav,
aged about 52 years Occupation : Accountant
(Now under Suspension) and resident of 104,
Old Subhedar Layout, Sharda Chowk,
Nagpur-440 024.

Applicant.

Versus

- 1) State of Maharashtra through its Secretary
Department of Medical Education and Drugs,
Gokuldas Tejpal Hospital Building Campus,
9th Floor, Lokmanya Tilak Road, Secretariat,
Bombay-400 032.
- 2) Director, Directorate of Medical Education and
Research (DMER), Government Dental College
and Hospital and Building, St. George Hospital
Compound, Bombay-400 001.
- 3) Dean, Indira Gandhi Medical College and
Hospital (IGMC), Nagpur.

Respondents

**Mr.S. Borkar A.K. & Mrs. S.K. Neware and B.G.Kadukar, Adv. for the
applicant.**

Smt. S.V. Kolhe, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGEMENT

(Delivered on this 2nd day of May,2017)

Heard Shri S.K. Neware, Id. Counsel for the applicant and Smt. S.V. Kolhe, Id. P.O. for the respondents.

2. The applicant is Accountant and now under suspension. There was internal audit conducted at Indira Gandhi Medical College and Hospital (IGMC), Nagpur on 10/09/2007 and it was found that there was financial misappropriation of Rs.49,72,289/-. Thereafter there was separate audit on 26/11/2007 and 27/11/2007 and exact amount of misappropriation was noticed Rs.50,12,099/-, and not Rs. 49,72,289/-. In view of the said point the applicant was kept under suspension vide impugned order dated 21/11/2007 and departmental enquiry was initiated against the applicant.

3. The applicant submits that the Government has issued various G.Rs. such as on 14/12/1995, 14/06/1996 and 20/07/2006 to deal with cases of employees under suspension for long period. The applicant files representation on 30/12/2013 for revocation of his suspension. However, it was not considered. Since last seven and half years the applicant is under suspension and therefore the applicant has filed this O.A. He has requested that the impugned order of suspension dated 21/11/2007 be quashed and set aside and the applicant be reinstated as Senior Assistant and the respondents be directed to pay arrears of salary with all consequential benefits.

4. According to the respondents, in view of the serious misconduct and illegalities committed by the applicant, the departmental inquiry under the Rule 10 of the Maharashtra Civil Services (Discipline & Appeal), Rules 1979 has been initiated against the applicant. One Shri S.U. Ramkhambe, Regional Inquiry Officer has been appointed. The applicant had earlier filed O.A.No.430 of 2013 and requested that the inquiry be transferred from Mumbai to Nagpur. The said O.A. was however dismissed on 30/09/2014. In addition to this the criminal case is also pending against the applicant bearing no.2831/2008 before JMFC. The applicant is not co-operating in the departmental inquiry and therefore inquiry could not be completed. In view of the criminal case pending against applicant and also in view of the fact that the departmental inquiry is also pending, the case of the applicant for revocation of suspension is not genuine.

5. The impugned order of suspension in respect of applicant is dated 21/11/2007 and the said order does not states anything except that the applicant be kept under suspension as departmental inquiry was proposed against the applicant.

6. The learned counsel for the applicant has placed reliance on the G.Rs. dated 14/12/1995, 14/06/1996 and 20/07/2006. The copies of the said G.Rs. are at P.B. Page nos. 16 to 21 (both inclusive). From the said G.Rs., it seems that the Government has

taken decision to consider the cases of the employees periodically if the employees are under suspension for a long period. It seems from the letter dated 15/04/2017 that the respondents have taken decision not to reinstate the applicant since the departmental inquiry is pending against the applicant. The learned P.O. has invited my attention to one G.R. dated 14/12/1995 (A-2,P-16) which states that if the serious offences are registered against the employee, such as misappropriation, murder, rape etc., the employee shall be kept under suspension till the decision of the criminal case.

7. In my opinion whether the case of the applicant is serious or not and whether the charges in departmental inquiry are also serious or not and whether employee shall be continued under suspension is the question to be decided by the competent committee. However for that purpose it is necessary to place the cases of the employees before the competent committee.

8. The learned counsel for the applicant has placed reliance on the Judgment delivered by the Hon'ble Apex Court in **Ajay Kumar Choudhary Vs. Union of India through its Secretary & Ano., reported in AIR 2015 SCC,2389.** In the said Judgment guidelines have been issued by the Hon'ble Apex Court in the cases of employees under suspension. The respondent / authority can

reconsider the case of the applicant in view of said guidelines and hence the following order :-

ORDER

The O.A. is partly allowed. The respondents are directed to place the case of the applicant for considering his revocation of suspension as per the guidelines issued by the Hon'ble Apex Court in the case of **Ajay Kumar Choudhary Vs. Union of India through its Secretary & Ano.** (*cited supra*) and also in view of the various G.Rs. issued by the Government of Maharashtra as regards cases of revocation of suspension of the employees. Necessary decision shall be taken accordingly without being influenced by any of the observations made by this Tribunal in this order. The decision may be taken within two months from the date of order and shall be communicated to the applicant in writing.

(J.D. Kulkarni)
Vice-Chairman (J).

dnk.