

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO. 475/2016.

Ashok Dnyaneshwar Jadhav,
Aged about 33 years,
Occupation- Service as Warden,
R/o Govt. Tribal Boys Hostel,
Gondpipri, Distt. Chandrapur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Tribal Development,
Mantralaya, Mumbai-32.
2. The Commissioner,
Tribal Development Department,
Nashik.
3. The Additional Commissioner,
Tribal Development, Civil Lines, Nagpur.
4. The Project Officer,
Integrated Tribal Development Project,
Chandrapur.
5. Sursh P. Wankhede,
Aged about Major,
Occupation- Project Officer,
Integrated Tribal Development Project,
Chandrapur.

Respondents.

Shri Bharat Kulkarni, the learned counsel for the applicant.
Shri P.N. Warjekar, the Ld. P.O. for the respondents 1 to 4.
None for respondent No.5.

Coram:- The Hon'ble Shri S.S. Hingne,
Vice-Chairman.

Dated:- 6th January 2017.

ORDER

With the consent of both the parties, matter is heard and decided at the admission stage.

2. The applicant, a Warden of school has challenged the order dated 2.7.2016 (A.1, P.30) by which he is placed under suspension.

3. Heard Shri Bharat Kulkarni, learned counsel for the applicant and Shri P.N. Warjekar, learned P.O. for respondents 1 to 4. None appeared for respondent No.5.

4. The applicant's case is that, without any sufficient and satisfactory reason, he is made scapegoat and suspended by impugned order. It is also contended that, though period of six months is lapsed, no enquiry is initiated or any action is taken. Hence, he has filed his O.A. seeking to revoke his suspension and sought other benefits.

5. So far as aspect of suspension is concerned, the learned counsel for the applicant relied on a case **Ajay Kumar Choudhary V/s Union of India in Civil Appeal No. 1912/2015 decided on 16.2.2015.** So far as other relief of determination of nature of suspension period is concerned, the learned P.O. submits that the same can be determined after the enquiry is conducted and,

therefore, the O.A. cannot be decided. The learned counsel for the applicant concedes that this aspect be kept open.

6. The respondents' case is that, the applicant is negligent in working, his attitude is arrogant, he disobeys the orders of his superiors, misuses the official authority and does not attend the meeting and behaves with the students arrogantly. It reveals from the record that the member of the Gram-Panchayat has complained about his misbehaviour by making the complaint to the Collector on 14.6.2016 (P.104). It is also mentioned that the applicant takes the work of watchman from the students. The Sub-Treasury Officer has also complained about the arrogant behaviour of the applicant vide communication dated 12.3.2016. Enquiry was held against the applicant and the allegations are found true which is obvious from the Inquiry Report (P.106 to 110). A show cause notice was given to the applicant. In the enquiry, the applicant tacitly admitted about the work of watchman being taken from the student. He did not remain present in the meeting when the Additional Commissioner held the same. From the above material on record, it cannot be said that the suspension is uncalled for.

7. However, the learned counsel for the applicant relied on the case of **Ajaykumar (supra)** and submitted that no enquiry is held and no action is taken against the applicant and he cannot be

kept under suspension for a long period in view of the observations in the **Ajaykumar (supra)** case. The learned P.O. has not demonstrated about any action being taken or enquiry is initiated against the applicant. Under such circumstances, in view of the guidelines, suspension cannot linger for a longer period.

8. The applicant has also submitted that he was working at Gondpipri, but his headquarters is made at Mulchera. When the enquiry is yet to be initiated, interference in the matter at the hands of the applicant can be there, because the statement of some students may be required to be recorded in the enquiry. Therefore, interference at the hands of the applicant cannot be ruled out. Moreover, the students are from tribal schools and, therefore, the respondents have rightly kept away the applicant from the said place.

9. It is also observed in **Ajaykumar (supra)** case that after reinstatement, if the administration requires, an employee can be kept outside so that he cannot have a personal contact with the local witnesses and there cannot be any misuse by an employee in the investigation or enquiry. Considering the said aspect, the respondents can place the applicant at other place with a view to avoid his interference from meeting in the enquiry or administration.

10. Consequently, the O.A. is disposed of in the following terms:

(i) Suspension of the applicant be revoked within a week from the receipt of this order.

(ii) The respondents are at liberty to place him at other place to have a free investigation or enquiry in the matter.

(iii) No order as to costs.

(S.S.Hingne)
Vice-Chairman

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