

**O.A. No.697/2017 (S.B.)**

**(Mr. Lingdeo Namdeo Shikhre V/s State of Mah. and one other)**

**Coram: J.D.Kulkarni, Vice-Chairman (J).**

**Dated : 22<sup>nd</sup> November, 2017.**

**ORDER**

Heard Shri S.C. Deshmukh, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for the respondents.

2. The applicant has claimed direction to the respondent no.2 to revoke his suspension order dated 20/5/2017 and allow him to work as Rakshak in Yeotmal District Prison. It is stated that the applicant has filed representations on 23/5/2017 and thereafter on 4/9/2017, i.e., just 14 days prior to filing of this O.A. and it is claimed that the respondent no.2 be directed to decide the representations.

3. The Section 21 of the Maharashtra Tribunals Act,1985 reads as under :-

**(21) Limitation** :- (1) a Tribunal shall not admit an application –

*(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;*

*(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without*

*such final order having been made, within one year from the date of expiry of the said period of six months.”*

4. In this case the applicant has filed representations on 23/5/2017 and thereafter on 4/9/2017 and without waiting for the result on such representations, immediately filed this O.A., i.e., just within 14 days from the last representation. As already stated the applicant can wait for six months for result on his representation and if no communication is received, he may approach the Tribunal. The applicant has not waited for six months.

5. The learned P.O. has also invited my attention to the Rule 17 (i) of the Maharashtra Civil Services (Discipline & Appeal), Rules, 1979. The relevant rule reads as under :-

**“(17) Orders against which appeal lies:** - *Subject to the provisions of Rule 6, a Government servant may prefer an appeal against all or any of the following orders, namely :-*  
*(i) an order of suspension made or deemed to have been made under Rule 4 of these rules.”*

6. The learned P.O. submits that the applicant should have filed appeal against the order of suspension. He has however not exhausted that efficacious remedy and has directly approached the Tribunal and therefore the application is premature.

7. Thus the applicant has not filed any appeal against the order of suspension as per Section 17 of the Maharashtra Civil Services

(Discipline & Appeal), Rules, 1979 nor waited for decision on his representation. Hence, on both these counts the application seems to be premature.

8. On 30/10/2017 the matter was heard on the similar point and on that date the learned counsel for the applicant sought two weeks' time to take instructions from the applicant as to whether to withdraw the O.A. The learned counsel for the applicant today submits that the applicant does not want to withdraw the O.A. and therefore the matter is heard on this point on merits.

9. The learned counsel for the applicant has placed reliance one Judgment delivered by this Tribunal in O.A. 755/2016 in **Devidas Shankar Bachute vs. State of Maharashtra & Ors**, on 13/4/2017 in which directions were issued in view of the Apex Court's Judgment in **Ajay Kumar Choudhary Vs. Union of India through its Secretary & Ano. (2015) 7 SCC,291**. The learned counsel for the applicant submits that similar direction may also be issued in this O.A. also. In this regard it is stated that the applicant is kept under suspension on 20/5/2017 and there are various guidelines in Circulars in the field whereby the competent authorities have been directed to consider the revocation of suspension periodically. The applicant may file representation for revocation of his suspension as per the guidelines of these Circulars available in the field and if such representations are filed, the competent

authority may take decision as per the existing rules and regulations for that purpose even there is no need for Tribunal to give any specific direction.

10. In view of the discussion, the application is therefore premature and hence it stands dismissed.

**Dated :- 22/11/2017.**

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

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