

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 218 OF 2023

DISTRICT:- BEED

Dr. Sandip S/o Trimbakrao Jogdand,
Age : 35 years, Occu. Service as
Medical Officer, R/o. Ekatmata Colony,
Yashwantrao Chowk, Ambajogai,
Tq. Ambajogai, Dist. Beed. ..

APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through its Secretary,
Public Health & Family Welfare
Department, Mantralaya,
Mumbai-32.
- 2) The Commissioner,
Health Services Mumbai, (M.S.),
'Arogya Bhawan', Saint Jorges
Hospital Area, P-Dmelo Road,
Mumbai-4000 001.
- 3) The Deputy Director,
Health Services Latur,
Circle Latur, Arogya Sankulan,
Government Vasahat,
Barshi Road Latur, Tq. & Dist. Latur.
- 4) The Deputy Director,
Health Services Nashik,
Circle Nashik, Divisional Reference
Service Hospital Area, Shalimar,
Nashik, Tq. & Dist. Nashik-422001.
- 5) The District Civil Surgeon Nandurbar,
District Hospital Nandurbar,
Tq. & Dist. Nandurbar.
- 6) The District Civil Surgeon Beed,
District Hospital Beed,
Dist. Beed-431122.

- 7) The Superintendent, Geriatric Health & Mental Illness Center
Ambajogai, Lokhandi Sawargaon,
Ambajogai, Tq. Ambajogai Dist. Beed. .. **RESPONDENTS**

APPEARANCE : Shri R.D. Khadap, learned counsel
for the applicant.

: Shri V.R. Bhumkar, learned Presenting
Officer for the respondent authorities.

CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN

DATE : 14.09.2023

ORAL ORDER

Heard Shri R.D. Khadap, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.

2. The applicant has been placed under suspension by the respondents vide order dated 09.12.2021 since FIR came to be registered against the applicant on the allegation of adopting malpractice in the examination wherein he was arrested and remained in Police custody for more than 48 hours. Departmental enquiry was also proposed against the applicant and as has been submitted by the learned counsel for the applicant the said D.E. is on the verge of completion. The grievance of the applicant is that though the order of suspension is passed against him before about 2 years, no review of the order of suspension was taken by the competent

authority and without that the suspension has been continued. Another grievance raised by the applicant is that he has not been paid any subsistence allowance. Learned counsel appearing for the applicant has relied upon the judgment in the case of **Ajay Kumar Choudhary Vs. Union of India Through its Secretary & Anr., (2015) 7 SCC 291** and has prayed for setting aside the order of suspension and further direction to the respondents to reinstate the applicant in service.

3. Despite due opportunities availed, the respondents have not filed their affidavit in reply. The Presenting Officer however, submitted that having regard to the nature of offences alleged against the applicant, suspension was required to be continued and on that count the suspension has not been yet revoked.

4. After having considered the submissions made on behalf of the applicant and respondent authorities, it appears to me that the respondent authorities were under an obligation to take review of the order of suspension after every 90 days in view of the law laid down by the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary Vs. Union of India Through its Secretary & Anr.** (cited supra). It is open for the respondents if in the review, the review committee reaches to the conclusion that continuation of the suspension is necessary, to continue the

same; however, the obligation which has been cast under the judgment of the Hon'ble Supreme Court cannot be dispensed with. In the present matter as is revealing from the contentions raised, the review has not been taken by the respondents though the applicant is under suspension for the period of about 2 years. Respondents are thus, contravened the guidelines given and the mandate issued by the Hon'ble Apex Court in the case of **Ajay Kumar Choudhary Vs. Union of India Through its Secretary & Anr.** (cited supra). Directions, in this regard, therefore, required to be given.

5. Secondly the respondents are bound to pay subsistence allowance to the applicant as provided under Rules 68 of the Maharashtra Civil Services (Joining Time, Foreign Service and Payments during Suspension, Dismissal and Removal) Rules, 1981. It is the case of the applicant that till today he has not been given any subsistence allowance. If this be so this is something serious and requires to be taken cognizance of.

5. For the reasons stated above, the following order is passed: -

ORDER

(i) The respondents are directed to refer the matter to the review committee and review committee shall review

the order of suspension within 4 weeks from the date of this order.

(ii) The respondents are further directed to pay to the applicant subsistence allowance from the date of order of suspension till this date, at the rate prescribed in Rule 68 of the Maharashtra Civil Services (Joining Time, Foreign Service and Payments during Suspension, Dismissal and Removal) Rules, 1981 within 4 weeks from the date of this order.

(iii) It need not be stated that even after the decision of the review committee, the grievance subsists, it would be open for applicant to subject the said decision for judicial scrutiny.

(iv) With the above observations the Original Application stands disposed of however, without any order as to costs.

VICE CHAIRMAN

O.A.NO.218-2023 (SB)-2023-HDD-Suspension