

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.141 OF 2023

**DISTRICT : NASHIK
SUBJECT : SUSPENSION**

Prakash Sampatrao Gangode,)
Junior Clerk (Suspended),)
O/o. Sub-Registrar Grade – I,)
Deola, Taluka Deola, District Nashik.)... **Applicant**

Versus

State of Maharashtra,)
Through District Registrar & District Collector, Nashik.)... **Respondent**

Shri Vijay Nirbhavane, learned Advocate for the Applicant.

Smt. Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : A.P. KURHEKAR, MEMBER (J)

DATE : 13.02.2023.

JUDGMENT

1. The Applicant has challenged suspension order dated 08.03.2021 on the ground of prolong suspension. The Applicant is serving in the cadre of Jr. Clerk in Sub Registrar Office Deola, Dist. Nashik. On 08.03.2021 Respondents suspended the Applicant in contemplation of D.E. and on the allegation of forgery of documents. Later, Deola Police also registered offence against the Applicant and others for the Offence u/s. 420, 406, 467, 471, read with 34 of IPC. Simultaneously D.E. was also initiated by Respondents in which the Applicant participated and enquiry officer also submitted report to the Respondent. However, Respondent is sitting over the matter and no further action is taken in D.E. In criminal case no chargesheet is filed yet. However, the Applicant is subjected to prolong suspension of near about two years. It

is on this background the Applicant has challenged prolong suspension in the present O.A.

2. When asked specifically, learned P.O. fairly concedes that no review was taken by the Collector about the reinstatement of the Applicant, all that she submits that Reply is received in D.E. and necessary orders will be passed shortly.

3. Hon'ble Supreme Court in **(2015) 7 SCC 291 (Ajay Kumar Choudhary Vs. Union of India & Anr.)** directed that the currency of a suspension order should not extend beyond 90 days if within this period the memorandum of charges is not served on the delinquent officer, and if the memorandum of charges is served, a reasoned order must be passed for the extension of the suspension. However, in present case D.E. was initiated on 25.05.2021 but no review was taken as to whether further suspension is justified or otherwise. Worst part is that even if D.E. is completed on 30.11.2022, in view of submission of report of enquiry officer no further steps are taken as required under Rule 9 of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. On the other hand the Applicant is subjected to prolong suspension of near about two years.

4. Indeed, Government issued G.R. dated 14.10.2011 thereby issuing direction to take periodical review of suspension. However, in present case there is failure on the part of Respondent to take review of the suspension. Indeed, D.E. also ought to have been completed within one year in terms of various G.Rs and instructions but still pending due to inaction on the part of Respondent. As such, the Applicant's fundamental right of expeditious decision in D.E. is frustrated. In criminal case though period of near about two years is going to over it is not certain how long Police will take to file chargesheet and no certainty of decision in criminal case. In such situation no purpose would serve to continue the Applicant under suspension. It is well settled that

suspension should be for short period and delinquent has to be reinstated if no fruitful purpose would serve for keeping him under suspension for longer period. Suspension therefore deserves to be revoked with liberty to the Respondents to reinstate him on Non-Executive Post / suitable post as deem fit. Hence, the order.

ORDER

- A) The Original Application is allowed.
- B) Suspension of the Applicant stands revoked.
- C) The Applicant shall be reinstated in service with liberty to the Respondents to give him suitable post including Non-Executive Post as deem fit within two weeks from today.
- D) Respondent is also directed to ensure completion of D.E. including by passing final order therein in accordance to law within two months from today and the decision as the case may shall be communicated to the Applicant within two weeks thereafter,.
- E) No order as to costs.

**Sd/-
(A.P. Kurhekar)
Member (J)**

Place: Mumbai
Date: 13.02.2023
Dictation taken by: N.M. Naik.

Uploaded on: _____