

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.321 OF 2021

**DISTRICT: BEED
SUBJECT : SUSPENSION**

Dileep Navnath Tonde,)
Age:-36 yrs, Occ. Service,)
Res/at Sonpethwadi, Po. Kalsambar,)
Tal. Beed, Dist. Beed – 431125.)... **Applicant**

Versus

- 1) The State of Maharashtra,)
Through Secretary, Revenue & Forest Dept.)
Mantralaya, Mumbai-32.)
- 2) Chief Conservator of Forest (Regional) Thane)
Near Microwave Tower, Bara Bunglow Area,)
Krishna Borker Marg, Kopri, Thane East,)
Thane, Maharashtra 400 603.)... **Respondents**

Shri S.S. Dere, learned Advocate for the Applicant.

Shri A.J. Chougule, learned Presenting Officer for the Respondents.

CORAM : Shri A.P. Kurhekar, Hon'ble Member (J)

DATE : 15.02.2022.

ORDER

1. The Applicant serving as Range Forest Officer, Sanjay Gandhi National Park, Borivali has challenged the suspension order dated 08.01.2021. He was arrested and detained in police custody exceeding 48 hours in Crime No.960/2020 under Section 7 of Prevention of Corruption Act. Therefore, by order dated 08.01.2021, the Government suspended him invoking Rule 4(2) (a) of Maharashtra Civil Services (Discipline & Appeal) Rules 1979 (hereinafter referred to as 'Rules 1979' for brevity).

2. The Applicant has challenged the suspension on the ground that he is subjected to prolong suspension and the same being beyond 90 days is impermissible in view of the decision of the Hon'ble Supreme Court in **(2015) 7 SCC 291 (Ajay Kumar Choudhary Vs. Union of India & Anr.)**

3. Whereas, the Respondents in reply stated that Review Committee in its meeting dated 01.07.2021 decided to continue the suspension. In reply, it is further stated that D.E. is initiated under Rule 8 of 'Rules 1979'

4. Shri S. S. Dere, learned Counsel for the Applicant submitted that his client is not served with charge sheet of D.E. As regard criminal prosecution, he submits that till date no charge sheet is filed in Criminal Case.

5. Thus, what transpires from the record that till date no charge sheet is filed in Criminal Case. The registration of offence and detention in custody was the ground for suspension. The Hon'ble Supreme Court in **Ajay Kumar Choudhary's** case (cited supra) held that the currency of a suspension period should not exceed beyond three months if within this period the memorandum of charges is not served upon the delinquent employee and if the memorandum of charges is served a reasoned order must be passed for extension of the suspension.

6. Though, in reply it is stated that in Review Committee meeting dated 01.07.2021, the decision was taken to continue the suspension, the minutes to that effect are not produced to find out the reasons which weighed authority for continuation of suspension.

7. Indeed, by G.R. dated 14.10.2011, the Government had issued elaborate instructions for taking periodical review of suspension of a Government servant who are suspended on account of registration of

serious crime. As per Clause No.4 (b) of G.R. dated 14.10.2011 where charge sheet is not filed in the Criminal Case, the Review Committee is empowered to pass appropriate order having regard to material collected by police during investigation, the period of suspension, status of D.E., antecedent of a Government servant etc. The review has to be taken periodically so that a Government servant is not subjected to prolong suspension unnecessarily. The Review Committee is required to take the decision on objective assessment of the situation. In present case, no such decision is forthcoming.

8. In view of above, O.A. deserves to be disposed of with suitable directions. Hence the following order.

ORDER

- (A) Original Application is disposed of with direction to Respondent No.1 to take review of suspension of the Applicant within six weeks from today and the decision as the case may be, shall be communicated to the Applicant within two weeks thereafter.
- (B) No order as to costs.

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

Place: Mumbai
Date: 15.02.2022
Dictation taken by: Vaishali Santosh Mane