

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.557 OF 2022

**DISTRICT: SOLAPUR
SUBJECT : SUSPENSION**

Shri Nuroddin Kashimso Mujawar,)
Age : 55 years, Talathi (Under Suspension),)
Talathi : Akkalkot, Taluka : Akkalkot,)
Sub-Division Solapur No.2, Dist. Solapur)
Residing at : Mujawar Galli, Khwaja Daug)
Dargha Area, Taluka : Akkalkot,)
District : Solapur.)... **Applicant**

Versus

1) The Assistant Collector,)
Sub-Division Solapur No.2, 3rd floor,)
Above District Central Bank, Collector)
Compound, District Solapur 413 001)
2) The Collector, Solapur)
Collector Compound, 1st floor,)
Main Building, Sidheshwar Peth,)
District Solapur 413 001)... **Respondents**

Shri Uday V. Bhosle, learned Advocate for the Applicant.

Smt. Archana B. Kologi, learned Presenting Officer for the Respondents.

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

DATE : 27.09.2022.

JUDGMENT

1. The Applicant has challenged suspension order dated 19.05.2022 whereby he was suspended in contemplation of regular Department enquiry invoking Rule 4(1)(a) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979.

2. The Applicant is Talathi working on the establishment of Respondents. The impugned order dated 19.05.2022 is second suspension order. Before it initially the Applicant was suspended by order dated 13.10.2021 though D.E. was initiated for minor penalty invoking Rule 10 of M.C.S. (Discipline & Appeal) Rules, 1979. The Applicant had challenged 1st suspension order dated 13.10.2021 by filing O.A. No.852/2021 before this Tribunal which was allowed by order dated 03.12.2021 and suspension was quashed and set aside having found that suspension in contemplation of D.E. for minor penalty is totally unwarranted. Thereafter the Applicant was reinstated in service. Then again by impugned suspension order dated 19.05.2022. Respondent No.2 – The Collector, Solapur suspended the Applicant in view of the decision taken by disciplinary authority to initiate regular D.E. under Rule 8 of M.C.S. (Discipline & Appeal) Rules, 1979. The Applicant is already served with chargesheet dated 08.02.2022. In D.E. the Applicant has tendered his reply and now enquiry is in process.

3. It is on this background the Applicant has challenged suspension order dated 19.05.2022 *inter-alia* contending that it was not at all warranted or necessitated and he has been victimized.

4. The subsequent development which has taken place during the pendency of O.A. is that the Applicant is already reinstated in service by order dated 22.09.2022. As such, what remains is the legality of suspension order dated 19.05.2022.

5. Shri U.V. Bhosle, sought to contend that the Applicant has been victimized by suspending him for no such unjustified reasons and suspension is illegal. Thus, according to him there was no serious charge or misconduct so as to warrant the suspension.

6. Per Contra, learned P.O. sought to justify impugned suspension order *inter-alia* contending that there are serious charges of negligence of

recovery of Land Revenue from Agriculturist as well as maintaining proper record, which has caused loss to the Government. She has pointed out that there were 12 charges framed in the D.E. and considering the seriousness of the charges decision of suspension taken up disciplinary authority need not be interfered with.

7. The only ground raised to challenge illegality of suspension order is in sufficiency of material to warrant the suspension. Needles to mention normally adequacy of the material or evidence before the disciplinary authority for suspension cannot be subject matter of assessment or scrutiny by the Tribunal. One needs to see gravity of charges leveled against the Government servant and whether enough to suspend the Government servant. In present case there were 12 charges leveled against the Applicant and D.E. is already initiated. As per the charge No.1, there was arrears of recovery of Land Revenue for year 2021 amounting to Rs.38,26,843/- (Rupees Thirty Eight Lakhs Twenty Six Thousand Eight Hundred and Forty Three Only). But it was not recovered by the Applicant, and it caused loss to the Government, this is one of the main charge. As per charge no.4 in the year 2018-2019 Land Revenue was recovered from 869 Agriculturist but no recovery was made from remaining Agriculturist. That apart in 2019 he has not recovered loyalty from the concerned for excavation of stones and thereby loss is caused to the Government. As per charge no.12, receipt No.0886883 recovery was to be made of Rs.40,365/- (Rupees Forty Thousand Three Hundred Sixty Five Only) but he recovered Rs.26,910/- (Rupees Twenty Six Thousand Nine Hundred and Ten Only) and deposited that much amount with the Government but fail to recover remaining amount. These are main charges among other charges of irregularities in maintaining record.

8. Having considered it, disciplinary authority thought it appropriate to suspend the Applicant. As such, this is not a case were suspension is ordered without there being material or justification for suspension.

Such suspension in the facts and circumstances of the case cannot be termed malafide or colorable exercise of law. I am therefore not in agreement with learned P.O. that there was no material to suspend the Applicant.

9. In this view of the matter suspension order cannot be termed illegal or invalid. Since the Applicant is already reinstated in service and D.E. is in process no further comment on the merit of the charges is warranted. It is for the disciplinary authority to take appropriate decision at the end of D.E. in accordance to law. D.E. deserves to be decided expeditiously so as to take the matter to the logical conclusion and challenge to the suspension order dated 19.05.2022 holds no water.

10. Respondents are directed to ensure completion of D.E. by passing final order therein within four months from today. No order as to costs.

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

Place: Mumbai
Date: 27.09.2022.
Dictation taken by: N.M. Naik.

Uploaded on: _____