

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.09 of 2021

District : Pune

Shri Anil B. Patil)
Age 38 years, working as Awal Karkoon,)
Tahasil Office Ambegaon,)
A/p Ghodegaon, Tal. Ambegaon, Dist. Pune.)...**Applicant**

Versus

1. State of Maharashtra, Additional Chief)
Secretary, Revenue & Forest Department,)
Mantralaya, Mumbai 400 032.)
2. The Collector, New Collector Office Build.)
Station Rd., opposite Sasoon Hospital,)
Pune 411 001.)
3. Shri Sunil Bile, Investigating Officer,)
Anti- Corruption Bureau, Central Build.)
Pune.) ...**Respondent**

Ms Asawari Ghate holding for Smt. Punam Mahajan, learned Advocate for the Applicant.

Smt. Archana B. K., learned Presenting Officer for the Respondent.

CORAM : Shri A.P. Kurhekar, Member-J

DATE : 09.06.2021

J U D G M E N T

In the present Original Application, the Applicant has challenged the suspension order dated 09.11.2020 issued by the Respondent No.2-Collector, Pune invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

2. Shortly stated facts giving rise to the Original Application are as under:-

The Applicant was serving as Awal Karkoon, Tahasil Office, Ambegaon, Pune. On 22.06.2020, offence under the provisions of

Prevention of Corruption Act was registered against the Applicant and one another. The Applicant secured anticipatory bail from the Sessions Court, Pune. It is on this background, the Respondent No.2-Collector, Pune by impugned suspension order dated 09.11.2020 suspended the Applicant in view of registration of crime as well as in contemplation of D.E. under Rule 4(1) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. Thereafter, the charge sheet in D.E. was also served upon the Applicant on 29.01.2020. However, no review was taken for revocation of suspension or otherwise. Therefore, the Applicant has approached this Tribunal inter-alia contending that the prolong suspension particularly in the light of the decision of the Hon'ble Supreme Court in **(2015) 7 SCC 291 (Ajay Kumar Choudhary V/s Union of India & Ors)** is unsustainable in law.

3. Heard Ms Asawari Ghate holding for Smt. Punam Mahajan, learned Counsel for the Applicant and Smt. Archana B. K., learned Presenting Officer for the Respondents.

4. There is no denying that the offence was registered under the provisions of Prevention of Corruption Act against the Applicant and in view of registration of crime, he was suspended by order dated 09.11.2020. Apart there is a specific mention in the suspension order that D.E. is also contemplated. Accordingly, the charge sheet in D.E. has been served on 29.01.2021 which was well within three months period in terms of the decision in **Ajay Kumar's** case (cited supra).

5. Admittedly, no charge sheet is filed in criminal case and the D.E. is pending without any substantial progress. The Applicant is under suspension for more than seven months and till date no review is taken.

6. In **Ajay Kumar's** case in Para No.14, the Hon'ble Supreme Court held as under:-

"14. We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the

Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us."

7. As such, even if the charge sheet in D.E. is served within three months, the Respondents were under obligation to pass appropriate orders about review of suspension after service of charge sheet in D.E. The Hon'ble Supreme Court held that the suspension should not extend beyond three months and if within the said period, the charge sheet is served, a reasoned order must be passed for extension of the suspension. In the present case, admittedly no such review was taken.

8. Indeed, the Government had issued G.R. dated 14.10.2011 and 31.01.2015 for taking periodical review of suspension of a Government servants who are suspended on account of registration of crime so that they are not subjected to prolong suspension. Thus, conscious decision on objective assessment of situation having regard to the facts of case is required to be taken by the Review Committee.

9. In view of above, Original Application deserved to be disposed of with suitable directions to take review of suspension of the Applicant. Hence the following order:-

ORDER

- (A) Original Application is allowed partly.
- (B) Respondents are directed to take review of suspension of the Applicant in accordance to law within a month from today and the decision thereon as the case may be shall be communicated to the Applicant within one week thereafter.
- (C) If the Applicant felt aggrieved by the decision, he may take recourse of law available to him.
- (D) No order as to costs.

Sd/-
(A.P. KURHEKAR)
MEMBER (J)

Date : 09.06.2021
Place : Mumbai
Dictation taken by :
Vaishali Santosh Mane
Uploaded on :
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