

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION No.1113 of 2018

DISTRICT : MUMBAI

Shri Vinod Dadaji Jadhav)
R/at 409/4724, Tagor Nagar,)
Vikhroli (East), Mumbai 400083.) **....Applicant**

Versus

1. The State of Maharashtra, through Additional)
Chief Secretary, (Transportation), Home Dept.)
M. S. Mantralaya, Mumbai 400 032.)
2. The Joint Director, Directorate of Technical)
Education, Technical Education Regional Office,)
World Bank Project Building, Govt. Polytechnic)
Campus, 49-Kherwadi, Aliyawar Jung Marg,)
Bandra (East), Mumbai -400051.) **)...Respondents**

Shri S.S. Dere, Advocate for Applicant.

Smt. Kranti Gaikwad, Presenting Officer for the Respondents.

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

DATE : 18.01.2019

ORDER

1. Heard Shri S. S. Dere, learned Advocate for the Applicant and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.

2. In the present O.A., the applicant has challenged the suspension order dated 10.03.2014, whereby he was kept under suspension in contemplation of D.E. under Rule 4(1) of MCS (Discipline & Appeal), Rules, 1979.

3. This Tribunal by order dated 17.01.2019 observed that the charge sheet in the D.E. was issued to the applicant after five years from the suspension and no objective decision has been taken for placing the matter before the Review Committee as contemplated in G.R. dated 14.10.2011. Therefore, the matter was kept today to take instructions from the department as to why the matter has not been placed before the Review Committee.

4. Today, the learned P.O. for the respondents submitted that the matter was placed before the Review Committee on 17.07.2018 but the Committee decided to continue the suspension. Learned P.O. further pointed out that by letter dated 16.01.2019 again, the proposal was forwarded for placing the matter before the Review Committee, on the ground that another co-delinquent namely Shri S. P. Borase was suspended arising from the same incidence has been reinstated by revoking the suspension. His suspension has been revoked in May, 2018. On this ground, she submits that again, now, the matter is being placed before the Review Committee and appropriate decision will be taken.

5. What transpires from the record that the continuous suspension for more than five years is totally unwarranted. There is a delay of five years in initiating the D.E. In ***Ajay Kumar Choudhary Vs. Union of India (2015) 2 SCC (L & S) 455***, the Hon'ble S.C. held that the suspension should not exceed more than 90 days and the charge sheet in criminal case or D.E. should be initiated within 90 days. As such, in view of the legal position, continuous suspension is ex-facie unwarranted.

6. Furthermore, though the Government has revoked the suspension of co-delinquent Shri Borase, the applicant is kept under continuous suspension for no reason much less valid one. In the minutes of the decision of the Review Committee dated 17.07.2018, there is absolutely nothing to justify the decision of the Review Committee about suspension. Reasons mentioned that the

process of D.E. is incomplete and, therefore, the Committee decided to continue the suspension is illogical and does not stand to reason. When the suspension of Shri Borase who is Headmaster has been revoked. There was absolutely no justification to continue the suspension of present applicant who is working as a Store Keeper.

7. In view of the above, now, the respondents realized and decided to place the matter before the Review Committee again. The Tribunal hopes that appropriate decision will be taken at the earliest.

8. This Original Application is, therefore, disposed of with directions that the subject of revocation of suspension and reinstatement of the applicant be placed before the Review Committee/Competent Authority and appropriate decision be taken within one month from today. The decision as the case may shall be communicated to the applicant. No cost.

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

Place : Mumbai
Date :
Dictation taken by : V.S. Mane
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