

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.254 OF 2023**

**DISTRICT: PUNE  
SUB : Suspension**

Shri Bajirao Jyotiba Patil, )  
Age:- 54 yrs, Occ.Jail Hawaldar )  
(under suspension), Yerwada Open Jail, Pune-6 )  
R/o. Yerawada Central Prison Vasahat, )  
Room No.33, Pune 6. )... **Applicant**

**Versus**

The Deputy Inspector General of Prison, )  
Western Division, Yerwada, Pune - 6. )...**Respondents**

Shri A. V. Bandiwadekar, learned Advocate for the Applicant.  
Smt. Archana B. K., learned Presenting Officer for the Respondents.

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

DATE : 13.07.2023

**JUDGEMENT**

1. The Applicant has challenged suspension order dated 19.11.2022 whereby he is suspended on account of registration of crime under the provision of Prevention of Corruption Act, 1988 invoking Rule 4(1) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979.

2. While the Applicant was serving as Hawaldar in Open Prison, Yerwada, Dist. Pune, he allegedly accepted bribe of Rs.15,000/- through one Smt. Rihana Asif, tea vendor. In sequel Anti-Corruption Bureau (ACB) registered offence vide Crime No.359/2022 for offences under Section 7, 7A, 12 of the provisions of Prevention of Corruption Act, 1988 on 19.11.2022. Consequent to it, the Respondent- Deputy Inspector General of Prison, Western Division, Yerwada, Pune suspended the

Applicant invoking Rule 4 (1) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. The Applicant has, therefore, challenged the suspension order mainly on the ground of prolong suspension without taking review of suspension and failure of the Respondents to complete D.E. within reasonable time.

3. Shri A. V. Bandiwadekar, learned Counsel for the Applicant sought to assail prolong suspension of the Applicant in reference to decision of the Hon'ble Supreme Court in **(2015) 7 SCC 291 (Ajay Kumar Choudhary Vs. Union of India & Anr.)**. He has further pointed out that though the charge sheet was issued on 08.02.2022, no further steps were taken for its completion and resultantly Applicant is subjected to prolong suspension. He has further pointed out that the Respondent has not taken review of the suspension as mandated by the Hon'ble Supreme Court in **Ajay Kumar Choudhary's case** and instructions contained in G.R. dated 14.10.2011. He, therefore, prayed to revoke suspension and for reinstatement of the Applicant in service.

4. Per contra, Smt. Archana B. K., learned P.O. submits that charges levelled against the Applicant being serious, the suspension cannot be said unjustified. However, she fairly concedes that Respondent has not taken review of suspension till date. According to her where delinquent is accused in Anti-Corruption case, review can be taken after one year as provided in G.R. dated 14.10.2011.

5. Thus, what transpires from the admitted facts that Applicant is subjected to prolong suspension of nearabout 8 months. There is absolutely no progress in D.E. or in criminal case. There is no certainty of completion of D.E. as well as criminal case as result of which Applicant's fundamental right of speedy trial and expeditious disposal of D.E. is frustrated. Indeed, in Anti-Corruption case, the ACB has not yet filed charge sheet. The Hon'ble Supreme Court in **Ajay Kumar Choudhary's** case, taking note of its earlier decision mandated that the

currency of a suspension order should not extend beyond three months, if within this period, the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served within three months, a reasoned order must be passed for the extension of the suspension. It would be apposite to reproduce Para Nos.14 of the judgment which is as follows:

*"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.*

6. True, the decision in **Ajay Kumar Choudhary's** case is arising basically from the departmental enquiry matter. However, at the same time, employee cannot be subjected to prolong suspension without taking review where no fruitful purpose would serve by continuing suspension. The employee could be reinstated in service on suitable post or on non-executive post as competent authority deems fit. The Hon'ble Supreme Court in **State of Tamil Nadu Vs. Pramod Kumar and another (Civil Appeal No.2427-2428 of 2018) dated 21<sup>st</sup> August, 2018** held that, where reinstatement of employee is not threat to trial and where no fruitful purpose would serve by continuing suspension, the employee can be reinstated on suitable post. In present

case, I see no such threat to criminal trial and no fruitful purpose would serve by continuing prolong suspension.

7. No doubt, as per G.R. dated 14.10.2011, where delinquent is accused in serious offence under IPC for provisions of Corruption Act, such matters are to be placed before the Review Committee after one year from suspension. But at the same time, in view of the decision of the Hon'ble Supreme Court in ***Ajay Kumar Choudhary's case***, which is subsequent to G.R. dated 14.10.2011, review needs to be taken and in absence of review, prolong suspension is impermissible.

8. In this view of the matter, the Original Application deserves to be disposed of with suitable directions. Hence, the following order :-

**ORDER**

- (A) The Original Application is allowed partly.
- (B) The Respondent is directed to take review of suspension of the Applicant and for his reinstatement in the light of observation made above within six weeks from today.
- (C) The decision be communicated to the Applicant within two weeks thereafter.
- (D) No order as to costs.

Sd/-

**(A.P. Kurhekar)**  
**Member (J)**

Place: Mumbai

Date : 13.07.2023

Dictation taken by: Vaishali Santosh Mane

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