

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.502 OF 2021

DISTRICT : PUNE

Shri Dnyandev K. Yadav)
Age :55 Yrs., Promoted as Tahasildar but)
Working as Revenue Naib Tahasildar,)
Shirur, Dist. Pune. (under suspension))
residing at Shreekrishna, near Angel)
School, Urali Kanchan, Tal. Haveli,)
Dist. Pune.)...**Applicant**

Versus

The State of Maharashtra, through)
Additional Chief Secretary, Revenue Dept.)
O/at. Mantralaya, Mumbai 400 032.)...**Respondent**

Mr. Arvind V. Bandiwadekar, Advocate for Applicant.

Mr. A.J. Chougule, Presenting Officer for Respondent.

CORAM : SHRI A.P. KURHEKAR, MEMBER-J

DATE : 07.10.2021

JUDGMENT

1. The Applicant has challenged the suspension order dated 06.07.2021 whereby he was suspended in contemplation of D.E. invoking Rule 4(1)(a) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979.

2. Since, the Applicant was subjected to prolong suspension without any steps for review of suspension, he has filed the present Original Application on 27.07.2021.

3. Shri Arvind V. Bandiwadekar, learned Counsel for the Applicant submits that prolong suspension in view of the decision of the Hon'ble Supreme Court in **(2015) 7 SCC 291 (Ajay Kumar Choudhary V/s Union of India & Ors)**, is not permissible and also referred G.R. dated 09.07.2019 issued by the Government on the basis of the decision of the **Ajay Kumar Choudhary's** case (cited supra) wherein the directions were given to take review of suspension and to file charge sheet within stipulated period of three months from the date of suspension so as to comply the law laid down in **Ajay Kumar Choudhary's** case.

4. Whereas, Shri A. J. Chougule, learned Presenting Officer submits that D.E. is already initiated by issuance of charge sheet dated 30.09.2021 and it is in process.

5. The perusal of suspension order dated 06.07.2021 reveals that the Applicant allegedly misused the authority, created false orders and took wrong entries in 7/12 extract of land. The Applicant has allegedly committed misconduct in terms of Maharashtra Civil Services (Conduct) Rules,1979.

6. Needless to mention, the adequacy of the material before the authority at the time of taking decision of the suspension does not fall within the scope and ambit of judicial review. The question as to whether the fact and circumstances of a case warrants of suspension of a Government servant in contemplation of D.E. is the matter of exclusive domain of the Government. However, in view of the decision of the Hon'ble Supreme Court in **Ajay Kumar Choudhary's** case where a Government servant is suspended in contemplation of D.E., the prolong suspension beyond 90 days is not permissible. The Hon'ble Supreme

Court, therefore, directed that the currency of suspension should not extend beyond three months if within the period, the memorandum of charges/charge-sheet is not served on the delinquent and if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. Para No.21 of the judgment is material, which is as under:-

“21. We, therefore, direct 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, 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 person concerned 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 prepared 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 the 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. Now turning to the facts of the present case, admittedly even before expiration of 90 days, the Applicant is served with charge-sheet dated 30.09.2021. This being the position, after filing of charge-sheet in D.E., the Government is required to consider as to whether extension of suspension period is warranted having regard to the gravity of the charges etc. But admittedly, the Government has not taken any such decision though obliged to take the said decision in view of the mandate of Hon'ble Supreme Court in **Ajay Kumar Choudhary's** case

8. Indeed, in G.R. dated 09.07.2019 also instructions are given that where charge-sheet is served within three months, the competent

authority has to take decision about continuation of suspension or otherwise and to pass appropriate order.

9. In view of above, the Original Application deserves to be disposed of with direction to Respondents to take review of suspension of the Applicant in view of the service of charge-sheet and shall pass appropriate order within a month from today. A decision, as the case may be, shall be communicated to the Applicant within a week thereafter. If the Applicant felt aggrieved by the decision, he may avail further legal remedy as permissible in law.

10. No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Place : Mumbai
Date : 07.10.2021
Dictation taken by : VSM