

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.505 OF 2018**

**DISTRICT : SATARA**

Smt. Simantini G. Kadam. )  
Age : 57 Yrs, Occu.: Awal Karkun (now under )  
suspension), Office of Tahasildar, Koregaon, )  
District : Satara and residing at Manisha )  
Housing Society, Karanje Tarphe Shahapuri, )  
Tamzai Nagar, Satara. )...**Applicant**

**Versus**

1. The District Collector, )  
Satara. )
2. The State of Maharashtra. )  
Through the Principal Secretary, )  
Revenue Department, Mantralaya, )  
Mumbai 400 032. )
3. The Divisional Commissioner, Pune, )  
Having office at Old Council Hall, M.S, )  
Pune. )...**Respondents**

**Mr. A.V. Bandiwadekar, Advocate for Applicant.**

**Ms. N.G. Gohad, Presenting Officer for Respondents.**

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

**DATE : 22.02.2019**

**JUDGMENT**

1. In the present Original Application, the challenge is to the suspension order dated 09.09.2014 passed by Respondent No.1 under Section 4(1)(c) of Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 (hereinafter referred to as "Rules 1979").

2. Shortly stated the facts giving rise to the application are as follows :

At the time of impugned suspension order, the Applicant was working as Senior Clerk in Tahasil Office, Koregaon, District Satara. On 04.09.2014, she was caught while accepting the bribe of Rs.2000/- from one Rupesh S. Sapkal. Accordingly, the offences under Sections 7, 12, 13(1)(d) and 13(2) of Prevention of Corruption Act were registered vide Crime No.9 of 2014 in Koregaon Police Station, District Satara. The Applicant was released on bail on 05.09.2014. In view of registration of offences, the decision was taken to initiate the Departmental Enquiry and accordingly, by impugned order dated 09.09.2014, the Applicant was kept under suspension in contemplation of D.E. Since then, the Applicant is under suspension till the filing of the present O.A. She had made representations for suspension of revocation and reinstatement on 06.06.2015 and 02.04.2018 but in vain. The Applicant, therefore, contends that her prolong suspension is unwarranted and illegal. She further contends that there is no proper compliance of the G.R. dated 14.10.2011 issued by GAD whereby Applicant's case was required to be reviewed periodically for objective decision regarding continuation of suspension. The grievance for non-payment of regular Subsistence Allowance has been also raised. As regard arrest in Anti-Corruption trap, the Applicant claims to be innocent. Her defence seems to be of false implication in Criminal Case. The Charge-sheet is filed in Criminal Case, but it is not progressing and D.E. is also in abeyance. On these pleadings, she invoked the

jurisdiction of this Tribunal and prayed to set aside the suspension order and for reinstatement in service with all consequential service benefits.

3. The Respondents resisted the application by filing Affidavit-in-reply (Page Nos.60 to 72 of the Paper Book) *inter-alia* denying that the suspension of the Applicant is illegal. The Respondents denied that the Applicant has been implicated falsely. According to Respondents, in view of nabbing of the Applicant red-handed in Anti-Corruption trap while accepting bribe of Rs.2,000/- out of demand of Rs.3,500/-, the suspension order dated 09.09.2014 is legal and in consonance with the provisions contained in Section 4(1)(c) of 'Rules 1979'. As such, in contemplation of D.E, the suspension order has been issued. Thereafter, the D.E. has been initiated on 28.01.2015 and charge-sheet has been served. The Sub-Divisional officer, Satara has been appointed as Enquiry Officer to complete the enquiry and submit the report. However, as per instructions in Manual of D.E, in view of pending of criminal case, no final decision has been taken in D.E. As regard revocation of suspension by Review Committee, the Respondents contend that the subject was placed before the Review Committee, but decision was taken to continue the suspension, as there was subsequent event wherein the offences under Sections 420, 467, 469, 471 read with 34 of Indian Penal Code vide Crime No.16 of 2015 has been registered at Wathar Police Station on the allegation that the Applicant has forged the signature of Tahasildar, Koregaon. As such, in view of registration of offences under Prevention of Corruption Act and later Indian Penal Code arising from subsequent event, the Review Committee decided to continue suspension. The Respondents, therefore, denied that her suspension is illegal. As regard non-payment of Subsistence Allowance, the Respondents contend that it is being paid periodically. On these pleadings, the Respondents prayed to dismiss the application.

4. The Applicant has filed Affidavit-in-rejoinder reiterating the contentions raised in the application which has been countered again by the Respondents by filing Affidavit-in-Sur-rejoinder.

5. Here, it is important to note that, during the pendency of this O.A, the Applicant stands retired on 30.10.2018. This being the position, now the question of reinstatement in service does not survive.

6. Mr. A.V. Bandiwadekar, learned Advocate for the Applicant, however, urged that, even if the Applicant stands retired during the pendency of this application, her continuous and prolong suspension is illegal and contrary to the Judgments of Hon'ble Supreme Court in **(2015) 7 SC 291 (Ajay Kumar Choudhary Vs. Union of India)** which has been followed by Hon'ble Supreme Court in **Civil appeal No.8427-8428 of 2018 (State of Tamil Nadu Vs. Pramod Kumar IPS & Anr.) decided on 21.08.2018**. He also referred to certain decisions passed by this Tribunal in earlier O.As to drive home his point that continuous suspension is illegal and suspension should have been revoked after filing of charge-sheet in Criminal Court or on initiation of D.E.

7. Per contra, Ms. N.G. Gohad, learned Presenting Officer countered that, in view of serious nature of offences registered against the Applicant, the suspension order dated 09.09.2014 is legal. She further sought to justify the decision of Review Committee not to revoke suspension in view of involvement of the Applicant in another serious crime for which, offence has been registered under various Sections i.e. 420, 467, 469, 471 read with 34 of Indian Penal Code. During the course of argument, she has produced the letter dated 16.04.2016 which shows that Review Committee in its meeting dated 29.03.2016 discussed this subject, but refused to revoke suspension in view of registration of second offence registered against her. She, therefore, contends that the suspension is legal and correct and O.A. is without any merit.

8. As stated above, during the pendency of this O.A, the Applicant stands retired on 30.10.2018, and therefore, the question of reinstatement in service does not survive. In this behalf, the letter dated 22.11.2018 filed by the learned P.O. during the course of argument reveals that the steps have been taken by the Department to pay GIS, GPF and provisional pension in view of retirement of the Applicant. It is further stated that the Subsistence Allowance is already paid.

9. As per the correspondence filed along with letter dated 22.11.2018 filed by learned P.O, the charge-sheet in Anti-Corruption case has been filed and the Criminal Case is pending in Court. As regard departmental enquiry, the report of Enquiry Officer has already been received. As such, it is apparent that the D.E. is already completed, but final decision in D.E. is not yet taken. The pendency of Criminal Case seems to be the reason for not finalizing the D.E.

10. At this juncture, it would be apposite to refer the decisions relied by the learned Advocate for the Applicant, which have bearing over the present issue.

(A) The legal position in respect of prolong suspension is no more *res-integra* in view of Judgment of Hon'ble Supreme Court in **Ajay Kumar Choudhary's** case (cited supra). It will be appropriate to reproduce Para Nos.11, 12 & 21 of the Judgment, which is as follows :

**“11.** *Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the memorandum of charges, and eventually culminate after even longer delay.*

**12.** *Protracted period of suspension, repeated renewal thereof, have regrettably become the norm and not the exception that they ought to be. The suspended person suffering the ignominy of insinuations, the scorn of society and the derision of his department, has to endure this*

*excruciation even before he is formally charged with some misdemeanor, indiscretion or offence. His torment is his knowledge that if and when charged, it will inexorably take an inordinate time for the inquisition or inquiry to come to its culmination, that is, to determine his innocence or iniquity. Much too often this has become an accompaniment to retirement. Indubitably, the sophist will nimbly counter that our Constitution does not explicitly guarantee either the right to a speedy trial even to the incarcerated, or assume the presumption of innocence to the accused. But we must remember that both these factors are legal ground norms, are inextricable tenets of Common Law Jurisprudence, antedating even the Magna Carta of 1215, which assures that – “We will sell to no man, we will not deny or defer to any man either justice or right.” In similar vein the Sixth Amendment to the Constitution of the United States of America guarantees that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial.*

**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.”*

(B) The Judgment in ***Ajay Kumar Choudhary’s*** case was also followed by 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*** wherein it has been held that, suspension must be necessarily for a short duration and if no useful purpose

could be served by continuing the employee for a longer period and reinstatement could not be threat for fair trial or departmental enquiry, the suspension should not continue further.

(C) The Hon'ble High Court in **2004 (1) Mah.L.J. 581 (Madanlal Sharma Vs. State of Maharashtra)** in Para No.15 while dealing with the prolong suspension held as follows :

**"15.** Indefinite continuation of suspension has always been declared invalid by a catena of decisions where it was demonstrated that for continuation of the suspension, the employee was not responsible. In addition, if the disciplinary authority did not proceed by issuing chargesheet and appointing the Enquiry Officer so as to initiate departmental proceedings within a reasonable period from the date of suspension, such suspension order continued for years together, gets vitiated and, therefore, it is required to be declared as invalid as well as illegal. We may in this regard refer to the decision of the Apex Court in the case of K. Sukhendar Reddy vs. State of A.P. and another, (1999) 6 SCC 257."

(D) In **O.A.35/2018 (Dilip J. Ambilwade Vs. The State of Maharashtra & Anr.) decided on 11.09.2018**, the Hon'ble Chairman in Para Nos.25, 27 and 28 while dealing with the aspect of prolong suspension and its legality held as under :

**"25.** Thus, now the ratio laid down in Ajay Kumar Choudhary's case is reiterated in case of State of Tamil Nadue Vs. Promod Kumar supra and the view taken by this Tribunal in Shri N.A. Polani's case (O.A 611/2017) is required to be followed without making an exception, being based on a mandatory precedent."

**"27.** Learned Presenting Officer tried to put last grain of weight in the balance by bringing to the notice of the Tribunal subsequent development. The said subsequent development is that by order dated 20.8.2018 applicant has been compulsorily retired in the matter of misconduct for which charge sheet was served on 11.4.2011.

Be it, as it exist, because by virtue of revocation of suspension on completion of 90 days thereof, as would only mean in the present

scenario, entitlement to the applicant for salary and allowances as if he was not suspended or the suspension is deemed to have been revoked.”

“28. In view of the subsequent development of compulsory retirement of the applicant, it follows that virtual reinstatement of the applicant is now an event not to occur. Therefore, the subsequent development of compulsory retirement of the applicant does not have any effect on the deemed revocation of suspension.”

(E) Similarly in ***O.A.1023/2017 (Ravindra V. Bharti Vs. The Executive Engineer & Ors.) decided on 29.11.2017***, the Hon’ble Chairman in Para Nos.18 to 21 held as follows :

“18. The approach of the Committee is wholly deplorable inasmuch as they did not exert to read the statement of witnesses. This is more shocking particularly in the background that one Police Officer of the rank of S.D.P.O is the member of the Committee, who is supposed to have expertise in surfing through charge sheet, however, though bulky it is.

19. This is not the first case coming before this Tribunal as a rare specie where the Review Committee has failed to consider the material on the basis of which the decision to continue the suspension is to be taken.

20. It is a matter of genuine application that while deciding to continue or to revoke the suspension, the record relating to criminal case is really not studied and the decision to continue the suspension is taken subjectively than objectively.

21. It is, therefore, considered necessary that this fact needs to be brought to the notice of the Chief Secretary for issue of directions to the Committee Members that whenever review of suspension is to be done in the background of a criminal case, the documents such as, stage of investigation, case diary, statement of witnesses and other evidence gathered by the Police be attended to and whenever it be a case other than suspension on account of a criminal case, all relevant papers must be examined and objective satisfaction must be recorded.”

(F) Then again in ***O.A.611/2017 (Naresh A. Polani Vs. The State of Maharashtra) decided on 23.10.2017***, the Hon’ble Chairman in Para Nos.9 to 12 held as follows :

“9. It is now well settled by virtue of judgment in Ajay Kumar Choudhary (supra) that notwithstanding the language as may have been employed in the conditions of service, now it is not open to the Government to continue the suspension beyond three months as a mandatory rule of precedent.

10. Therefore, in the peculiar facts and circumstances recorded hereinbefore the alternative remedy is hereby dispensed with.

11. By following the precedent as laid down in Ajay Kumar Choudhary (supra) this Tribunal has no other choice but to quash and set aside the order of suspension dated 21.10.2016 which is at Exhibit 'A' page 18 of the OA.

12. Hence, the OA is allowed and the impugned suspension order dated 21.10.2016 is hereby quashed and set aside.”

(G) The same issue has also been considered by this Tribunal in ***O.A.167/2016 (Anand B. Dalvi & Ors. Vs. The Addl. Commissioner of Police & Ors.) decided on 15.10.2016*** wherein in Para No.10 observed as follows :

“10. However, I am very clearly of the view that I must discuss the authority of **Ajay Choudhary** (supra) which lays down the principles of law with regard to the issue of suspension in the facts and circumstances such as they are. Now, on facts, it is completely inexplicable as to why for three long years, the case of the Applicants for revocation of suspension was not reviewed at all. The mandate of the Rules in that behalf was observed in complete breach. I cannot be ransomed into going along with the Respondents only on the basis of high sounding serious looking allegations. That is for the simple reason, that if the Applicants have committed such a grave offence, it must also constitute misconduct. No disciplinary proceeding has gone underway and no charge-sheet has been laid before the Court of competent criminal jurisdiction for three long years. In that event, can it be countenanced that the suspension continues as if forever and that precisely is taken care of fully and completely by **Ajay Choudhary's** case. Although basically it was a case of suspension preceding the initiation of departmental enquiry, but then there are observations there which would make it very clear that even in case of any suspension other than preceding the DE, even otherwise the judicial forum shall frown upon the fruitless prolongation of the agony of suspension.”

(H) Reference also needs to be made to ***O.A.284/2017 (Dr. Madhav A. Waghmare Vs. The State of Maharashtra)*** decided on ***24.07.2017*** wherein while considering the issue of suspension and subsequent retirement of the Government employee during the course of suspension itself, in view of ***Ajay Kumar Choudhary's*** case, the Tribunal in Para No.11 held as follows :

**"11.** It is, therefore, very clear that while it comes to the considering the sustainability of the order of suspension, for the foregoing, it is not possible for me to hold the same. No doubt, in the normal circumstances, after expressing my opinion on the merit of the matter, I would have remanded the matter with a direction to place the issue before the Suspension Review Committee. However, now that the Applicant has superannuated while under suspension, I can see no practical utility of that course of action. I am satisfied that even as a case of continuation of DE is made out against the Applicant, but the order of suspension is unsustainable and that finding can be given here and now by quashing and setting aside the order of suspension."

11. In continuation of the aforesaid legal position, it is imperative to take note of instructions contained in G.R. dated 14.10.2011, which oblige the Review Committee / Disciplinary Authority to take periodical review of suspension. By the said G.R, exhaustive instructions have been issued with an object that the Government servant should not be subjected to prolong suspension. As per Clause 2(c) of the G.R, the meeting of Review Committee is required to be taken quarterly. Whereas, as per Clause 3 of the G.R, in case where the Government servant is kept under suspension on account of registration of serious offence under Prevention of Corruption Act or Indian Penal Code, such matter should be placed before the Review Committee after one year from the date of suspension to take decision about the revocation or continuation of suspension. Whereas, as per Clause 4(a) of G.R, if the Criminal Case is not decided within two years from the date of filing of charge-sheet, in that event, the Committee can revoke the suspension and can recommend for reinstatement of the Government servant on

non-executive post. Lastly, as per Clause 7(a) of the G.R, where the Government servant is kept under suspension in contemplation of D.E. and the same is not completed within six months, then the Disciplinary Authority is under obligation to take decision as per merit of the case for revocation of suspension and reinstate him on non-executive post, so that he should not interfere with the witnesses.

12. Now, turning to the facts of the present case, the Applicant was kept under suspension by order dated 09.09.2014. The D.E. was initiated on 28.01.2015 whereas charge-sheet in Criminal Case was filed in the Court on 10.02.2015. The Applicant stands retired on 30<sup>th</sup> October, 2018 during the pendency of this application. The dates of issuance of charge-sheet in D.E. as well as filing of charge-sheet in Criminal Case are relevant and have bearing over the present issue in view of mandate of Hon'ble Supreme Court that the suspension should not exceed beyond 90 days. As such, in the present case, admittedly, neither the D.E. was initiated within 90 days nor charge-sheet in Criminal Case was filed within 90 days from the date of suspension. Whereas, the mandate of Judgment of Hon'ble Supreme Court in **Ajay Kumar Choudhary's** case is loud and clear that the currency of 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 and where Memorandum of charges / charge-sheet is served, a reasoned order must be passed for extension of suspension. In the present case, even after filing of charge-sheet in Criminal Case or initiation of D.E, no such order much less reasoned order has been passed for the extension of suspension and the Applicant is subjected to prolong suspension without bothering the mandate of Hon'ble Supreme Court as well as instructions contained in G.R. dated 14.10.2011.

13. As stated above, the Applicant stands retired during the period of suspension on 30<sup>th</sup> October, 2018. Therefore, now the question of reinstatement in service does not survive. In normal circumstances, the matter would have been remitted to the Review Committee to take appropriate decision in terms of G.R. dated 14.10.2011. But in view of retirement of Applicant, that course of action is foreclosed. Though the Applicant stands retired during the pendency of matter, the question of legality and validity of continuous prolong suspension needs to be decided.

14. Shri A.V. Bandiwadekar, learned Advocate for the Applicant strenuously urged that, in view of settled legal position by catena of decision, the prolong suspension of the Applicant without progress in Criminal Case and without completing D.E. deserves to be quashed. He, therefore, prayed for deemed date of revocation or declaration of illegality of suspension so that the Applicant could get service benefits to that extent which is of-course would be subject to outcome of criminal prosecution or D.E.

15. At this juncture, it would be apposite to note that, on the presentation of this application when the same was placed for admission before the Hon'ble Chairman, a note of prolong suspension and necessity of immediate consideration of the matter for review of suspension was taken and in Para No.9 issued following direction :

“9. Review Committee headed by Divisional Commissioner, is expected to impartially and objectively examine applicant's case and decide the matter of review of applicant's suspension in the background that the suspension is continued for over four years and special case as well as D.E. is not progressing.”

16. However, despite the aforesaid specific direction, no action was taken for the compliance of the order passed by this Tribunal. This being the position, it seems that the Respondents are averse to take remedial measures despite

bringing it to the notice of concerned who were under obligation to take note of the same and to pass appropriate order in terms of G.R. dated 14.10.2011 and legal position in this behalf.

17. At the fag end of the trial, when a specific query raised by the Tribunal, the learned P.O. has produced a letter dated 09.10.2018 issued by Collector to Divisional Commissioner along with relevant information for placing the same before the Review Committee with his opinion that the Applicant can be reinstated in service in view of prolong suspension. However, that was not taken to the logical conclusion and simply kept in abeyance, as if they were waiting for the retirement of the Applicant. This is nothing but abdication of duties imposed by the law as well as failure to perform the obligations.

18. Though the G.R. dated 14.10.2011 contemplates periodical review for the suspension of the Government servants, in the present case, review was taken once only on 29.03.2016 and the Committee decided not to revoke the suspension by passing following cryptic order.

कर्मचा-याचे नाव	पदनाम	समितीने घेतलेले निर्णय / दिलेल्या सूचना
श्रीमती एस. जी. कदम.	थनलंबित अव्वल कारकून, ता. कोरेगाव, जि. सातारा	श्रीमती कदम यांच्याविरुद्ध ACB खटल्याव्यतिरिक्त तहसिलदार यांच्या सहीचा बनावट आदेश तयार केलेबाबत गु.रं. नं. १६/१५ दाखल करण्यात आला असून त्यांना दि. २० ते २२/२/१६ पर्यंत पोलीस कस्टडी व दि. २२ ते ४ /२/१६ पर्यंत मॅजिस्ट्रेट कस्टडी देण्यात आली आहे. श्रीमती कदम यांच्याविरुद्ध बनावट कागदपत्र करण्यासंबंधी गंभीर गुन्हा दाखल असल्याने समितीने त्यांना पुनःस्थापित न करण्याचा निर्णय घेतला आहे.

19. It is thus apparent that the Committee was swayed away because of subsequent registration of offence vide Criminal Case No.16 of 2015 against the Applicant. In so far as Crime No.16/2015 is concerned, there is nothing to

indicate the nature of documents examined or even seen by the Committee. Even in this O.A. also, it is not made clear whether any charge-sheet in reference to Crime No.16/2015 has been filed in the Court of law. Apart, the disciplinary authority was free to initiate the D.E. against the Applicant based on this subsequent cause of action and that could have been concluded within a reasonable time. However, admittedly, no D.E. is initiated in this regard.

20. Now, turning to the recommendation dated 29.03.2016 of the Committee to continue his suspension, the said decision cannot be said taken objectively after examining the relevant papers. In fact, this aspect was brought to the notice of Chief Secretary in view of order passed by Hon'ble Chairman in ***O.A.1023/2017 (Ravindra Bharati Vs. Executive Engineer)*** cited supra, wherein specific directions were issued. The Committee is required to examine all relevant papers and objective satisfaction must be recorded. Regretfully, no such remedial measures have been taken and the concerned authorities seem to be averse to take any such remedial measures, which is deplorable.

21. Be that as it may, I have no hesitation to conclude that the decision of Committee to continue his suspension does not appear to be outcome of any objective deliberation. The Committee simply swayed away by registration of subsequent offence registered against the Applicant for which no further action has been initiated by the concerned authorities. Resultantly, the Applicant is subjected to indefinite and prolong suspension as neither Criminal Case is progressing nor D.E. is completed. It is on this background, ultimately, the Applicant has approached this Tribunal by filing this O.A. on 07.06.2018 when he was at the verge of retirement. Had he approached the Tribunal earlier perhaps appropriate judicial order would have been issued before his retirement. However, delay on his part should not come in the way of Tribunal to decide legality of his continuous and prolong suspension.

22. As the question of reinstatement now does not survive, the issue needs to be decided about the period of prolong suspension and date from which his suspension ought to have been revoked by the concerned authorities as per Hon'ble Supreme Court's mandate in **Ajay Kumar Choudhary's** case that suspension should not continue from more than 90 days. Apart, there was no periodical review on the issue of revocation of suspension in terms of G.R. dated 14.10.2011, the contents of which are adverted to above. In this behalf, Clause 4(a) of G.R. is material which is as follows :

“४. निलंबन आढावा समितीने, प्रकरणांचा आढावा घेताना पुढील बाबी विचारात घ्याव्यात.

अ) फौजदारी गुन्हा दाखल झालेल्या प्रकरणात न्यायालयात दोषारोप पत्र अभियोग दाखल झाल्यानंतर दोन वर्षांच्या कालावधीत प्रकरणांचा निकाल लागला नसेल तर अशा प्रकरणी निलंबन संपुष्टात आणून अकार्यकारी पदावर नियुक्ती देण्याची शिफारस संबंधित निलंबन आढावा समिती करू शकते.”

23. As such, the maximum period of suspension in terms of G.R. shall be 2 years. As per Clause 4(a), if Criminal Case is not decided within two years from the date of filing of charge-sheet, the Review Committee is empowered to revoke suspension and to appoint the Government servant on non-executive post. In the present matter, the charge-sheet in Criminal Case was filed on 10.02.2015. The Applicant was kept under suspension by order dated 09.09.2014. This being the position, in terms of Clause 4(a), the Committee was required to take decision of revocation of suspension on the period of expiration of two years from the date of filing of charge-sheet. In other words, the Applicant was required to be reinstated w.e.f.10.02.2017. The Respondents having failed to take any such decision in terms of Clause 4(a) of G.R. in the present facts and circumstances, in my considered opinion, the Applicant is entitled to deemed date of revocation w.e.f. 10.02.2017.

24. The necessary corollary of aforesaid discussion leads me to conclude that the prolong suspension of the Applicant is unsustainable in law and facts and

Applicant's suspension deemed to have been revoked w.e.f.10.02.2017. The Application is, therefore, deserves to be allowed partly. Hence, the following order.

**ORDER**

- (A) The Original Application is partly Allowed.
- (B) Applicant's suspension deemed to have been revoked w.e.f.10.02.2017 and he is entitled to service benefits with deemed date of revocation of suspension.
- (C) This order shall be without prejudice to the powers of the concerned authorities to proceed further in D.E. and Criminal prosecution.
- (D) No order as to costs.

Sd/-  
**(A.P. KURHEKAR)**  
**Member-J**

Mumbai

Date : 22.02.2019

Dictation taken by :

S.K. Wamanse.

D:\SANJAY WAMANSE\JUDGMENTS\2019\2 February, 2019\O.A.505.18.w.12.2018.Suspension.doc