

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 558 of 2021 (SB)

Naresh Jairam Wate,
Aged about 54 years, R/o Armori,
Distt. Gadchiroli.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Revenue and Forest,
Mantralaya, Mumbai.
- 2) Collector, Gadchiroli.

Respondents.

Shri N.R. & Mrs. K.N. Saboo, Advocates for the applicant.
Shri A.M. Khadatkar, P.O. for the respondents.

**Coram :- Hon'ble Shri M.A. Lovekar,
Member (J).**

Date of Reserving for Judgment : 7th March, 2022.

Date of Pronouncement of Judgment : 16th March, 2022.

JUDGMENT

(Delivered on this 16th day of March, 2022)

Heard Shri N.R. Saboo, learned counsel for the applicant
and Shri A.M. Khadatkar, learned P.O. for the respondents.

2. Case of the applicant is as follows –

The applicant was working as Mandal Officer when he received a show cause notice dated 30/06/2021 (Annexure-A-3). It was issued by respondent no.2. It was based on communication made by Tahsildar to respondent no.2, dated 21/6/2021. Copy of said communication was not given to the applicant nor was his explanation called. To the show cause notice, the applicant gave reply dated 5/7/2021 (Annexure-A-4). Respondent no.2 then passed the impugned order dated 14/7/2021 (Annexure-A-1) placing the applicant under suspension. The impugned order is malafide. It was passed, because, superiors of the applicant did not like the work which the applicant used to perform in his capacity as President of Vidarbha Rajswa Nirikshak Mandal Adhikari Sangh (fonHkZ jktLo fujh{k d eMG vf/kdkjh l k). In this capacity, he had made some representations (Annexure-A-2 collectively) to respondent no.2. The impugned order was purportedly passed under Rule 4 (1) (a) of the Maharashtra Civil Services (Discipline and Appeal) Rules,1979. Before passing the impugned order, the applicant was not informed about any of the complaints said to have been received against him. On the basis of vague allegations, the impugned order was passed so as to deter him from taking part in union activities. By passing the impugned order, respondent no.2 ignored the legal position that such order could have

been passed not routinely, but only as a last resort. For these reasons, the impugned order is liable to be quashed and set aside.

3. Reply of respondent no.2 is at page nos. 17 to 26. To this reply, notice dated 16/4/2021 issued by Tahsildar, Armori (Annexure-R-2-I) to the applicant, communication dated 21/6/2021 made by Tahsildar, Armori to respondent no.2 (Annexure-R-2-II), reply dated 5/7/2021 (Annexure-R-2-III), given by the applicant to show cause notice dated 30/6/2021, and order dated 16/7/2021 (Annexure-R-2-IV) taking over charge from the applicant, are attached.

4. In communication dated 21/6/2021 (Annexure-R-2-II) it is stated –

^ ¼5½ tehu egl ny vf/kfu; e 1966 e/khy dye 150 ¼6½ ud kj eMG vf/kdkjh ; kauk vk{ksi i klr u >kY; kl QjQkj i ækf.kr dj.; kps vkf/kdkj vl u l ðnk QjQkj c&; kp dkyko/khl kBh i yfcr Bð.kj vuko/; d =v/; k yko.kj {kYyd dkj .kkauh QjQkj ukeatj dj .ks ; keGs ukxjhdke/; s eMG vf/kdkjh] vkjekjh ; kps fojkskk 'kr djh ukxjhdke; k ys[kh rdkjh i klr >kY; k vkgr- , [kkn; k ckchph i qrk ul sy rj l æf/kr fgrl æf/krkauk R; k ckchph i qrk dj.; kph l puk dj .ksb"V Bjrs dkj .k , [kknk QjQkj eMG vf/kdkjh ; kauh ukeatj dY; kl R; kauk vi hy ek- mi foHkxh; vf/kdkjh ; kpsdMp djkoh ykxrs 'kr djh oxkzyk v'kk i dkljsvi hy dj.; kl Hkx i km.kseg.ktsoGpk o i Skkpk vi 0; ; p vkgs R; ki s'kk =v/hph i qrk dj.; kph , dnk l dkh nouu i djl .ks i qhy rkj [koj Bð.ksl a qDrd Bjysvl rsi .k eMG vf/kdkjh ; kpsdMuu v'kh drh ?kMY; kps fnl u ; r ukgh-

¼6½ rykB; kauh ?krysysQjQkj vkMlykbZu ri kl u ukshl rkeh >kysfdok ukgh ; kph 'kgkfu'kk dj.; kph tckcnkj eMG vf/kdkjh ; kph vl rs QjQkj uknhckr ukshl rlfey gkou 15 fnol >kysvl rhy rj 15 fnol kurj rykB; kdMuu QjQkj kps vtZekxou] QjQkj vtZri kl u] [kk=h >kY; kurj yxp QjQkj i æk.khr dj.; kph

*t ckcncjh eMG vfi/kdkjh ; kph vI u I qnk R; kpsdMu I nj dkeke/; scjkr foyc glr
vI Y; kpsfnl u ; rs ***

Aforequoted allegations led to passing of the impugned order.

5. The question in the instant case is whether suspension of the applicant can be allowed to continue. Admittedly, charge sheet has not been served on the applicant as yet. It may be reiterated that the impugned order placing the applicant under suspension is dated 14/7/2021. Therefore, the question posed as above, will have to be answered in the negative in view of the G.R. dated 9/7/2019 issued by the GAD, Government of Maharashtra which states as under –

“शासन निर्णय:-

“निलंबित शासकीय अधिकारी / कर्मचाऱ्यांच्या निलंबनाची कारणे व त्यांचे गांभीर्य यानुसार त्यांच्या प्रकरणांचा आढावा घेण्यासंदर्भात शासनाने वेळोवेळी वर संदर्भामध्ये दर्शविल्यानुसार शासन निर्णय निर्गमित केले आहेत.
श्री.अजयकुमार चौधरी विरुद्ध यूनियन ऑफ इंडिया (सिव्हिल अपील क्र. 1992/2015) मध्ये मा. सर्वोच्च न्यायालयाने दिनांक 16.2.2015 रोजी दिलेल्या निर्णयाच्या परिच्छेद 14 मधील आदेश खालीलप्रमाणे आहेत:-

“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 the 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.

शासन निर्णय:-

1. या अनुषंगाने शासकीय कर्मचाऱ्यांच्या निलंबनाचा आढावा घेण्यासंदर्भात पुढीलप्रमाणे सूचना देण्यात येत आहेत:-

(i) x x x

(ii) निलंबित शासकीय सेवकांच्या ज्या प्रकरणी 3 महिन्यांच्या कालावधीत विभागीय चौकशी सुरु करून दोषारोप पत्र बजावण्यात आले नाही, अशा प्रकरणी मा. सर्वोच्च न्यायालयाचे आदेश पाहता, निलंबन समाप्त करण्याशिवाय अन्य पर्याय राहत नाही. त्यामुळे निलंबित शासकीय सेवकांबाबत विभागीय चौकशीची कार्यवाही सुरु करून दोषारोप पत्र बजावण्याची कार्यवाही निलंबनापासून 90 दिवसांच्या आत काटेकोरपणे केली जाईल याची दक्षता / खबरदारी घेण्यात यावी.”

(iii) x x x

6. In the instant case, Clause (ii) of the G.R. which is quoted above will be applicable since chargesheet was admittedly not served

on the applicant within 90 days from the date on which he was placed under suspension. Therefore, further continuation of the impugned order would be impermissible in law. Hence, the following order -

ORDER

- (i) The O.A. is allowed.
- (ii) The impugned order placing the applicant under suspension (Annexure A-1) is revoked.
- (iii) The respondents shall issue consequential order within 30 days from the date of receipt of this order.
- (iv) No order as to costs.

Dated :- 16/03/2022.

dnk.

(M.A. Lovekar)
Member (J).

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 16/03/2022.

Uploaded on : 16/03/2022.