

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR**

**ORIGINAL APPLICATION NO.666/2017.**

**(S.B.)**

Bhaurao Bhujangrao Madavi,  
Aged about 52 years,  
Occ:- Service,  
R/o New Shantinagar, Dabha,  
District Nagpur.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Tribal Development,  
Mantralaya, Mumbai-32.
2. The Additional Commissioner,  
Tribal Development Department,  
Nagpur.

**Respondents**

---

Shri A. P. Tathod, the Ld. Advocate for the applicant.  
Shri A.M. Khadatkhar. the Ld. P.O. for the respondents.

---

**Coram:-Shri J.D. Kulkarni,**  
**Vice-Chairman (J)**

---

**JUDGMENT**

(Delivered on this 4<sup>th</sup> day of July 2018.)

Heard Shri A. P. Tathod, the learned counsel for the applicant and Shri A.M. Khadatkhar, the learned P.O. for the respondents.

2. The applicant in this case has claimed that the suspension order dated 24.4.2017 issued by respondent No.2 i.e. Additional Commissioner, Tribal Development Department, Nagpur shall be quashed and set aside. He has also claimed that the order dated 12.7.2017 issued by the respondent No.2 i.e. Additional Commissioner, Tribal Development Department, Nagpur whereby the applicant has been punished without holding any departmental enquiry, be also quashed and set aside. So far as the prayer as regards quashing of suspension order is concerned, it is material to note that, the applicant was kept under suspension vide order dated 24.4.2017, but was reinstated in service, as the suspension order has been revoked vide order dated 12.7.2017. Thus, at the time of filing of the O.A., the applicant was not under suspension, since his suspension was revoked. The only disputed point to be considered is now whether the order dated 12.7.2017 (A-7) whereby the applicant has been punished as per Rule 5 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (in short, "Discipline and Appeal Rules"), is legal or not and whether the action on the part of respondent No.2 treating the applicant's suspension only is legal and proper.

3. From the record, it seems that while the applicant was working as Office Superintendent in the office of the Addl. Commissioner, Tribal Development Department, Nagpur, he was kept under suspension on the ground that he was not diligent in the official work and was not following written and oral instructions given by his superior. The order of suspension was passed on 24.4.2017. The said order has been revoked on 12.7.2017 and on the very day, another order has been passed whereby it was held that the applicant was responsible for misconduct and his suspension period was treated as suspension. Admittedly, no departmental enquiry has been initiated till today against the applicant and, therefore, it is not proved whether he has committed any misconduct as alleged. It is also material to note that, on the very day the applicant has been reinstated in service. Ld. P.O. admits that no departmental enquiry has been initiated against the applicant nor any show cause notice was given to him as to why disciplinary action should not be taken against him. Only show cause notice was given to the applicant and why departmental enquiry shall not be initiated. It is stated that the applicant did not reply that notice. If it is a fact that at the most, the respondent No.2 should have initiated departmental enquiry, but the respondents straightway found the applicant guilty and treated

the suspension period as suspension only. It is absolutely illegal order, since no opportunity was given to the applicant. It is against the principles of natural justice and equity and, therefore, I proceed to past the following order:-

### ORDER

- (i) The O.A. is allowed.
- (ii) The order dated 12.7.2017 (Annexure A-7) issued by Additional Commissioner, Tribal Development Department, Nagpur, which is as under:-

“श्री. बी.बी. मडावी, कार्यालय अधीक्षक (निलंबित) यांना खालीलप्रमाणे शिक्षेचे आदेश याद्वारे देण्यात येत आहे.

(१) महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम, १९७९ मधील नियम ५ (एक) नुसार श्री. बी.बी. मडावी, कार्यालय अधीक्षक यांचेवर ठपका ठेवण्यात येत आहे.

(२) श्री. बी.बी. मडावी, कार्यालय अधीक्षक यांचा निलंबन काळ हा निलंबन काळ म्हणून संबोधण्यात येत आहे.

stands quashed and set aside.

- (iii) It is further made clear that in case an enquiry is initiated against the applicant within three months from the date of this order, decision as regards suspension period shall be taken

after completion of such enquiry as per the result of the enquiry. In case no departmental enquiry is initiated, suspension period shall be treated as duty period.

(iv) No order as to costs.

(J.D.Kulkarni)  
Vice-Chairman(J)  
4.7.2018.

pdg