IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NO.950 OF 2018

DISTRICT : SOLAPUR

Shri Rajesh Shantaram Devare.)
Age : 50 Yrs, Occu.: Police Inspector,)
(now under suspension), Karmala Police)
Station, Tal.: karmala, District : Solapur and)
Residing at 72-Bangalows, C/o. Dongre,)
A/P/T Karmala, District : Solapur.)**...Applicant**

Versus

The Special Inspector General of Police.)
Kolhapur Range, Kolhapur, Having Office at)
Kasaba Bawade, Kolhapur.)**…Respondent**

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

Ms. N.G. Gohad, Presenting Officer for Respondent.

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

DATE : 30.01.2019

JUDGMENT

1. In the present Original Application, the challenge is to the suspension order dated 06.10.2018 invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. Shortly stated facts giving rise to this application are as under :

The Applicant was functioning as Police Inspector at Karmala Police Station, Taluka Karmala, District Solapur. On 03.10.2018, election of Chairman of Karmala Agriculture Produce Market Committee was held. In the run-up of election, due to political rivalry, the situation at the venue became tense. The Applicant had already deployed Police Personnel for Bandobast in anticipation of the apprehension of threat to law and order situation. He claims to have deployed enough Police Personnel and had taken required security measures for peaceful election. However, on account of election rivalry, some offences came to be registered in the Police Station arising from assault against each other. Applicant was made scapegoat and blamed for inefficient handling of the situation. He was found incompetent to take enough measures and failed to discharge his duties efficiently. Therefore, preliminary enquiry was conducted. It is on this background, on 06.10.2018, the Respondent i.e. Inspector General of Police, Kolhapur Range suspended him invoking Section 25(2)(a) of Maharashtra Police Act read with Rule 3(1-A)(i) of Maharashtra Police (Discipline and Appeal) Rules, 1956 (hereinafter referred to as 'Rules 1956') in contemplation of departmental enquiry and his head quarter is kept at Solapur. The Applicant has challenged his suspension order in the present O.A.

3. On the above ground, the Applicant contends that since the impugned order of suspension is punishment, it is arbitrary and unsustainable in law and facts and prayed to set aside the same and reinstatement in service.

4. The Respondent resisted the application by filing Affidavit-in-reply (Page Nos.40 to 79 of the Paper Book) *inter-alia* denying that the impugned suspension order suffers from any illegality. Though the Affidavit-in-reply is running into 79 pages, most of the pleadings pertain to the alleged incompetency, dereliction in duties, inefficiency which relates to the prior incidences, and therefore, this need

not be considered as the impugned suspension order has been passed solely on the incident occurred on 03.10.2008. Therefore, the pleadings about the earlier service record and antecedent of the Applicant need not be adverted to and it would be appropriate to confine to the grounds and pleadings related to impugned suspension order dated 06.10.2018.

5. The Respondent denied that the impugned suspension order is in the form of punishment and in violation of Section 25(2)(a) of Maharashtra Police Act. In this behalf, the Respondent contends that the impugned order is in contemplation of departmental enquiry pertaining to the alleged dereliction in duties or incompetency to handle the situation on 03.10.2018. In this behalf, the Respondent contends that the election of Chairman of karmala Agriculture produce Market Committee was scheduled on 03.10.2018 and keeping in mind the politically sensitive issue and prevalent atmosphere, the Applicant was expected to take sufficient measures for peaceful election, but he failed to take preventive measures and to evaluate the situation that any such law and order problem can arise during the election process. He failed to take measures and to follow guidelines issued by DGP in Circular dated 02.09.2016. As very few Police Personnel were deployed, they were unable to control the situation. Thus, in short, he failed to discharge duties efficiently. Consequently, the preliminary enquiry was conducted wherein the Applicant was found prima-facie negligent in discharging his duties. Therefore, the Applicant was suspended in contemplation of D.E. under Section 25(2)(a) of Maharashtra Police Act read with Rule 3(1-A)(i) of 'Rules 1956'. The Respondent viz. Inspector General of Police, Kolhapur Range is empowered by the Government to issue suspension order by virtue of Notification dated 12.01.2011. As such there is no illegality or *malafides* in issuance of suspension order.

6. The Applicant has also filed his Rejoinder reiterating the contentions raised in the application and sought to contend that the preliminary enquiry was

conducted by Shri Swamy, SDPO is not fair, and therefore, his report of the enquiry is vitiated. In this respect, the Respondent sought to contend that Shri Swamy was also found prima-facie responsible for not handling law and order situation on 03.10.2018. Therefore, the preliminary enquiry conducted by Shri Swamy giving finding against the Applicant is unfair and contrary to the principles of natural justice.

7. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Ms. N.G. Gohad, learned Presenting Officer for Respondents at length.

8. The challenge to this suspension order is mainly on the following grounds :

(i) The impugned punishment order dated 06.10.2018 since issued in exercise of power under Section 25(2)(a) of Maharashtra Police Act is punitive, the same is illegal as it has been passed without initiating regular departmental enquiry.

(ii) The Respondent – Inspector General of Police is not competent to suspend the Applicant.

(iii) The suspension order has been issued without placing the matter before Police Establishment Board (PEB), and therefore, it is in breach of Section 22H of Maharashtra Police Act, as the suspension relate to service matters, and therefore, it ought to have been placed before PEB.

(iv) There is no compliance of proviso to Rule (3-A)(i) of 'Rules 1956'.

(v) Though the period of 90 days from the date of suspension period is over, no charge-sheet is issued in contemplation of departmental enquiry, and therefore, the continuous suspension beyond 90 days is illegal in view of Judgment of Hon'ble Supreme Court in ***(2015) 7 SC 291 (Ajay Kumar Choudhary Vs. Union of India).***

9. **As to ground No.(i)** :

Shri Bandiwadekar, learned Advocate for the Applicant vehemently urged that the impugned suspension order having been issued in exercise of power under Section 25(2)(a) of Maharashtra Police Act is apparently punitive and the same being issued without regular D.E. is not sustainable in law. According to him, since the contents of suspension order dated 06.10.2018 indicts the Applicant for the alleged dereliction in duties, apparently, it is stigmatic and punitive. On this line of submission, he contends that the suspension order is illegal.

10. Whereas, the learned P.O. countered that the impugned suspension is not punishment as contemplated in Section 25(1)(b) but it is in contemplation of D.E. and does not suffer from any illegality.

11. Here, it would be appropriate to reproduce Section 25(1) and 25(2)(a) of Maharashtra Police Act for ready reference.

> "**25**. **Punishment of the members of the subordinate ranks of the Police Force departmentally for neglect of duty, etc.**
>
> [(1) The State Government or any officer authorized under sub-section (2), in that behalf, may impose upon an Inspector or any member of the subordinate ranks of the Police Force, who in the opinion of the State Government or such authorized officer, is cruel, perverse, remiss or negligent in, or unfit for, the discharge of his duties, any one or more of the following penalties, namely :-
>
> (a) Recovery from pay of the whole or part of any pecuniary loss caused to Government on account of the negligence or breach of orders on the part of such Inspector or any member of the subordinate rank of the Police Force;
> (b) suspension;
> (c) reduction in rank, grade or pay, or removal from any office of distinction or withdrawal of any special emoluments;
> (d) compulsory retirement;
> (e) removal from service which does not disqualify for future employment in any department other than the Police Department;
> (f) dismissal which disqualifies for future employment in Government service :

Provided that, suspension of a police officer pending an inquiry into his conduct or investigation of a complaint against him of any criminal or investigation of a complaint against him of any criminal offence shall not be deemed to be a punishment under clause (b).

[25(2)(a) The Director General and Inspector General including Additional Director General, Special Inspector General, Commissioner including Joint Commissioner, Additional Commissioner and Deputy Inspector-General shall have authority to punish an Inspector or any member of the subordinate rank under sub-section (1) or 1A). A Superintendent shall have the like authority in respect of any police officer subordinate to him below the grade of inspector and shall have powers to suspend an Inspector who is subordinate to him pending enquiry into a complaint against such Inspector and until an order of the Director-General and Inspector-General or Additional Director-General and Inspector-General and including the Director of Police Wireless and Deputy Inspector-General of Police can be obtained."

12. Thus, the conjoint reading of Section 25(1) and 25(2)(a) reveals that the suspension is one of the punishment but as per proviso to Section 25(1), the suspension of Police Officer pending an enquiry into his conduct shall not be deemed to be a punishment under Clause (b).

13. Needless to mention that the suspension must be distinguished from suspension as a punishment which is a different matter altogether depending upon the Rules in this behalf and the contents of the suspension order. The general principle is that, an employer/State can suspend an employee pending an enquiry into his conduct. Therefore, there is a distinction between suspension as a punishment where Rules provide so and the suspension as an interim measure during contemplation of D.E. In so far as suspension as a punishment is concerned, it is followed by D.E. In the present case, the Respondent comes with a specific contention that the impugned suspension order is not a punishment within the meaning of Section 25(2)(a) but it is suspension by way of interim measure as per Rule 3(1-A)(i) of 'Rules 1956'.

14. True, in impugned suspension order, a reference is made to Section 25(2)(a) of Maharashtra Police Act which deals with the punishment, but at the same time, there is also reference to Rule 3(1-A)(i) of 'Rules 1956'. Furthermore, in impugned order itself, it is clarified that, in preliminary enquiry, the Applicant was found *prima-facie* guilty for dereliction of duty, and therefore, he is kept under suspension during the contemplation of full-fledged D.E. Merely because in suspension order, a reference is made of *prima-facie* guilty for dereliction of duty that does not *ipso-facto* changes the nature of order into an order of punishment. At the most, it could be a case of quoting a wrong provision i.e. Section 25(2)(a) in impugned order and nothing else.

15. The submission advanced by the learned Advocate for the Applicant that, these two provisions i.e. 25(2)(a) and Rule 3(1-A)(i) of Rule 1956 are distinct provision, and therefore, the reference of both vitiate the suspension order is misconceived. He referred to Judgment of Hon'ble Supreme Court in ***2003 SCC (L & S) 951 (Chandra Singh & Ors. Vs. State of Rajasthan & Anr.)***. He sought to place reliance to Para No.37 of the Judgment, which is as follows :

> "**37**. *This takes us to the question as to the whether the action of the High Court in making the assessment of the performance of the appellants prior to 31.3.1999 stand the scrutiny of Rule 53 of the Rajasthan Civil Service (Pension) Rules, 1996. In a given case, the said rule may be taken recourse to but the High Court never took any stand that its action was justified thereunder. Ex facie the said rule is not applicable inasmuch as it has never been the contention of the respondents that the impugned order had been passed in public interest or other pre-requisite therefor, namely, giving of three months' notice in writing to the Government servant before the date on which he is required to retire in public interest or three months' pay and allowances in lieu thereof, had been complied with. Compliance of pre-requisites of such a rule, it is well-settled, is mandatory and not directory. Such a plea has expressly been negatived by this Court. [See Rajat Baran Roy's case (supra) - paras 13 to 16]. It is fairly well-settled, that the legality or otherwise of an order passed by a statutory authority must be judged on the face thereof as the reasons contained therein cannot be supplemented by an affidavit. [See Mohinder Singh Gill and Another vs. The Chief Election Commissioner, New Delhi and Others â\200\223 (1978) 1 SCC 405] . It may be true that mentioning of a wrong provision or omission to mention the correct provision would not invalidate an order so long as the power exists under any*

provision of law, as was submitted by Mr. Rao. But the said principles cannot be applied in the instant case as the said provisions operate into two different fields requiring compliance of different pre-requisites. It will bear repetition to state that in terms of Rule 53 of the Pension Rules, an order for compulsory retirement can be passed only in the event the same is in public interest and/or three months' notice or three months' pay in lieu thereof had been given. Neither of the aforementioned conditions had been complied with."

Thus, the perusal of the Judgment of Hon'ble Supreme Court reveals that, it relates to interpretation of Rajasthan Civil Service Rules, 1951 and Notification issued by Rajasthan Government in case of premature retirement of Judicial Officer. The Hon'ble Supreme Court observed that Rule 53 of Rajasthan Civil Services (Pension) Rules, 1996 is not applicable as it has never been the contention of Respondent invoking the said Rule. It is in that context, it has been held that, though mentioning of wrong provision in the order may not invalidate the order so long as the power exists under any provision of law, but that principle would not apply where two statutory provisions operate in two different fields requiring compliance with different prerequisites. As such, the facts are quite distinguishable, and therefore, this authority is of little assistance to the Applicant.

16. Another contention raised by the learned Advocate for the Applicant that, Shri Swamy, S.D.P.O. was bias, and therefore, preliminary enquiry conducted by him is against the principles of nature justice is premature. According to learned Advocate for the Applicant, Shri Swamy was also responsible for the said incident, and therefore, he should not have been entrusted with the task of the enquiry. So far as this aspect is concerned, as stated above, the suspension order has been issued in contemplation of full-fledged D.E. where the Applicant will enough opportunity to defend himself and to raise all the defences available to him in Rules. At any rate, this aspect does not vitiate the suspension order as sought to contend by the leaned Advocate for the Applicant.

17. In view of above, I find no substance in the submission advanced by the learned Advocate for the Applicant that the suspension order is punitive. At the cost of repetition, it is necessary to mention that it is a suspension in contemplation of D.E. invoking Rule 3(1-A)(i) of 'Rules 1956'.

18. **As to ground No.(ii)** :

As regard competency of the Respondent to suspend the Applicant, the perusal of Notification issued by Home Department, State of Maharashtra dated 12.01.2011 (Page No.39 of the Paper Book) reveals that the Government in exercise of powers under Section 25 of Maharashtra Police Act read with Rule 3(1-A)(i) of Maharashtra Police (Punishments and Appeals) Rules, 1956 conferred the power of suspension on Inspector General of Police of their respective range to suspend the Officer of the rank of Police Inspector and below the rank of Police Inspector. The contention raised by the learned Advocate for the Applicant that the Notification has not been published in Official Gazette, and therefore, it is invalid, is fallacious and misconceived. Rule 3(1-A)(i) specifically provides that the State Government can empower any other authority to place Police Personnel under suspension. There is no such requirement of its publication in Official Gazette. In fact, there is nothing to establish that it has not been published in the Official Gazette. Anyway, the Notification dated 12.01.2011 confer the powers of suspension of P.I. on the Respondent within its range. Therefore, the contention raised by learned Advocate for the Applicant that the Respondent is not empowered or authorized to issue suspension order is rejected. I see no infirmity on the point of competency and empowerment of Respondent to issue suspension order.

19. **As to ground No.(iii)** :

The learned Advocate for the Applicant urged that the matter of suspension being connected to service matters, it ought to have been placed before PEB for its approval and it being admittedly not done so, the suspension order is unsustainable. In this behalf, the Respondent's contention is that, there is no such requirement to take approval of suspension from PEB.

20. True, as per Section 22-H, the PEB at range level are established to perform following functions :

(a) *The Board shall decide all transfers, postings and other service related matters of Police Officers of the rank of Police Sub-Inspector to Police Inspector within the Range* and;

(b) *The Board shall be authorized to make appropriate recommendations to the Police Establishment Board No.2, regarding the postings and transfers out of the Range, of the Police Officers of the rank of Police Sub-Inspector to Police Inspector*.

21. Shri Bandiwadekar, learned Advocate for the Applicant sought to place reliance on ***AIR 1964 SC 786 (R.P. Kapoor Vs. Union of India & Anr.)*** wherein the Hon'ble Supreme Court held that the words "disciplinary matters" in Article 314 of the Constitution must be given their widest meaning and it includes suspension. The learned Advocate for the Applicant further referred to the definition of "service matters" as defined in Section 3(q) of Administrative Tribunals Act, 1985. According to this definition, service matters include disciplinary matters. As such, according to him, the suspension must have been vetted by PEB. I find myself unable to agree with this submission.

22. True, the suspension relates to service matters, but that itself cannot be interpreted to lay down a law that it also needs to be placed before the PEB. The

suspension falls exclusively within the domain of disciplinary authority and often requires immediate implementation of the orders of suspension. Needless to mention that the suspension order is a preliminary nature prelude to an enquiry. The exigency may warrant the suspension of an employee with immediate effect depending upon the facts and circumstances of the matter. Therefore, the very object of issuing suspension order would be defeated if it is delayed for placing the same before the PEB. The learned Advocate for the Applicant could not point out any such specific provision in this behalf, which mandates the placing of suspension matter before the PEB for its approval or vetting. I, therefore, see no substance in the submission advanced in this behalf by the learned Advocate for the Applicant.

23. **As to ground No.(iv)** :

Now, coming to the non-compliance of proviso to Rule 3(1-A)(i) of 'Rules 1956', the learned Advocate for the Applicant vehemently urged that, even if there is empowerment in favour of Respondent by Notification dated 12.01.2011 still the suspension order is not sustainable as there is no compliance of proviso to Rule 3(1-A)(i) of 'Rules 1956'. In this behalf, he has pointed out that in Notification itself, a specific proviso is added which mandates that where the suspension order is passed by the authority subordinate to the appointing authority, then such subordinate authority is required to report the appointing authority the circumstances in which the order of suspension was made forthwith. On this line of submission, he placed reliance on the Judgment passed by this Tribunal, Bench at Nagpur in ***O.A.No.650/2016 (Ramesh K. Ratnaparkhi Vs. State of Maharashtra) decided on 20th December, 2016*** and Judgment passed by this Tribunal in ***O.A.No.300/2014 (Sunil S. Jain Vs. The Commissioner, Food & Drugs Admn.) decided on 26th November, 2014*** wherein, non-compliance of proviso to Rule 4(i)(a) of M.C.S. (Discipline and Appeal) Rules, 1979 was one of the ground to set aside the suspension order. It is material to note that Proviso

to Rule 4(1)(a) of 'Rules of 1979' and proviso to Rule 3(1-A)(i) of 'Rules 1956 are analogous.

24. Whereas, the Respondent in reply has taken a specific stand that, since the Inspector General of Police is competent authority, it is not obligatory to submit report to the D.G. or I.G.P. justifying the circumstances in which the Respondent was compelled to pass the impugned order of suspension against the Applicant. As such, admittedly, there is no such compliance of the proviso to Rule 3(1-A)(i) of 'Rules 1956'.

25. It would be appropriate to reproduce Section 3(1-A)(i) with proviso thereunder, which is as follows :

> **"(1-A) (i)** The appointing authority or any authority to which it is subordinate or any other authority empowered by the State Government in this behalf may place, a Police Officer under suspension where—
>
> (a) an inquiry into his conduct is contemplated or is pending,
>
> or
>
> (b) a complaint against him of any criminal offence is under investigation or trial:
>
> Provided that where the order of suspension is made by an authority lower in rank than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order of suspension was made."

26. The perusal of the aforesaid provision makes it quite clear that where suspension order is passed by any other authority empowered by State Government (other than appointing authority) then in that event, it is mandatory on the part of such authority to forward the report forthwith to the appointing authority the circumstances in which the order of suspension was made. It is mandatory requirement and not mere formality. That is why, it also find place in Notification dated 20.01.2011. Needless to mention, when law requires to do a

particular thing in particular manner only then such requirement has to be followed in that manner, if the provision is mandatory. In the present case, the word is used "shall" and not "may". As such, it is mandatory and not directory. Therefore, the compliance of proviso is *sine-qua-non* for sustainability of the suspension order in the eye of law. In the present case, it being not done so, there is no escape from the conclusion that the suspension order on this count i.e. for non-compliance of proviso to Rule 3(1-A)(i) of 'Rules 1956' is not sustainable in law. In O.A.No.650/2018 referred to above also one of the ground for quashing the suspension order was non-compliance of the proviso to Rule 3(1-A)(i) of 'Rules 1956'. I, therefore, find merits in the submission advanced by the learned Advocate for the Applicant on this count.

27. **<u>As to ground No.(v)</u>** :

Furthermore, the suspension order is also assailable and unsustainable in view of the Judgment of Hon'ble Supreme Court in ***(2015) 7 SC 291 (Ajay Kumar Choudhary Vs. Union of India)***. At this juncture, it would be apposite to reproduce relevant paragraphs from the Judgment in ***Ajay Kumar Choudhary*** (cited supra) which are 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."*

28. 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 21st 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.

29. As such, in view of ratio of Judgment of Hon'ble Supreme Court, it is no more *res-integra* that notwithstanding the language as may have been used in

the service rules now it is not open to the Respondent to continue the suspension beyond three months as a mandatory rule of precedent, if charge-sheet in Criminal Case or in D.E. is not issued within the cap of 90 days from the date of suspension.

30. In the present case, the Applicant has been kept under suspension by order dated 06.10.2018. As such, till date, the period of 90 days is already over. The learned P.O. fairly stated that, till date, no charge-sheet has been issued in D.E. This being the position, this Tribunal has no other choice except to quash and set aside the order of suspension on this ground also.

31. Shri Bandiwadekar, learned Advocate for the Applicant in this behalf rightly placed reliance on the Judgment passed by this Tribunal in ***O.A.No.611/2017 (Naresh A. Polani Vs. The State of Maharashtra) decided on 23.10.2017*** and ***O.A.No.35/2018 (Dilip J. Ambilwade Vs. The State of Maharashtra) decided on 11.09.2018***. The consistent view has been taken by the Tribunal in these Judgments that, suspension beyond 90 days in view of mandate of Judgment in ***Ajay Kumar Choudhary's*** case is illegal.

32. The necessary corollary of the aforesaid discussion leads me to conclude that the suspension order is not sustainable for non-compliance of proviso to Rule 3(1-A)(i) of 'Rules 1956' as well as in view of ratio laid down by Hon'ble Supreme Court in ***Ajay Kumar Choudhary's*** case (cited supra). Hence, the following order.

O R D E R

(A) The Original Application is allowed.

(B) The impugned suspension order dated 06.10.2018 is quashed and set aside.

(C) The Respondent is directed to reinstate the Applicant in service on any suitable post having regard to fair trial of the proposed departmental

enquiry within two weeks from today with all consequential service benefits as permissible in Rules.

(D) No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Mumbai
Date : 30.01.2019
Dictation taken by :
S.K. Wamanse.
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