

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.506 OF 2020

DISTRICT : JALGAON

Sudhir S/o. Giridhar Dhiware,
Age : 55 years, Occu. : Service,
R/o. Sakhari Road, Plot No.109,
Dhule, Dist. Dhule.

...APPLICANT

V E R S U S

- 1) The Secretary,
Public Works Department,
4th Floor, Main Building, Madam Cama Road,
Hutatma Rajguru Chowk,
Mantralaya, Mumbai-32.
- 2) The Chief Engineer,
Public Works Regional Division,
Amrawati.
- 3) The Superintending Engineer,
Public Works Circle, Akola,
Dist. Akola.

...RESPONDENTS

APPEARANCE : Shri D.R.Irale Patil, Advocate for the
Applicant.

: Shri M.P.Gude, Presenting Officer for
the Respondents.

CORAM : **SHRI A.P.KURHEKAR, MEMBER (J)**

DECIDED ON : **16.02.2021.**

ORAL ORDER

1. Applicant has invoked jurisdiction of this Tribunal under section 19 of the Administrative Tribunals Act, 1985 challenging suspension order dated 10-11-2020 whereby he was suspended invoking Rule 4(1)(a) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979.

2. The Applicant is working in the cadre of Executive Engineer in Public Works Department, State of Maharashtra. He was posted as Executive Engineer, Public Works Division, Akola by order dated 28-12-2018. While he was serving there chargesheet was served upon him on 20-03-2020 for conducting departmental enquiry initiated under Rule 8 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 on the charge that he failed to get construction work of the building of District & Sessions Court, Akola completed within 24 months. The applicant has submitted his reply to the chargesheet and thereafter it is kept in cold storage. Thereafter, the applicant has been transferred to Jalgaon. While, he was working at Jalgaon abruptly by order dated 10-11-2020 he was suspended by order dated 10-11-2020 invoking Rule 4(1)(a) of the Maharashtra Civil Services (Discipline & Appeal) Rules,

1979. Since then, he is under suspension which is challenged in the present O.A.

3. Shri Irale Patil learned Advocate for the applicant sought to assail the suspension order on the ground that the suspension was not at all justified once the applicant was transferred from Akola to Jalgaon. He has also pointed out that in the departmental enquiry no further steps are taken but the applicant is subjected to prolonged suspension. Whereas the learned P.O. sought to justify the impugned suspension order.

4. Thus, what transpires from the record that firstly the Government had served chargesheet upon the applicant on 20-03-20 and thereafter no further steps are taken for completion of departmental enquiry. In the meantime, the applicant was transferred from Akola to Jalgaon. However, after 8 months abruptly, respondent no.1 vide order dated 10-11-2020 suspended the applicant in view of the pendency of the departmental enquiry. Indeed once the applicant was transferred from Akola to Jalgaon, I fail to understand as to what was the necessity to suspend the applicant ? True, adequacy of material before the competent authority for suspension of the Government servant normally cannot be questioned in the Tribunal. However, facts of the present case

are very peculiar since the chargesheet was issued on the charge of inefficiency in completion of court building within 24 months but surprisingly without taking further steps to complete the departmental enquiry, the respondent no.1 jumped to the decision of suspension of the applicant by order dated 10-11-2020 when the applicant was already transferred from Akola to Jalgaon. In view of the transfer of the applicant from Akola to Jalgaon, question of tampering of evidence or influencing witnesses in the departmental enquiry does not arise. Firstly, chargesheet was issued and later on after 8 months suspension order has been passed. There is absolutely nothing to show as to what prompted respondent no.1 to suspend the applicant belatedly. Suffice to say, suspension is totally mechanical and unsustainable being resorted to as a matter of routine.

5. Be that as it may be, even after suspension no steps are taken by the Government to complete the departmental enquiry. Even, the Enquiry Officer is not appointed which shows the laxity and non-adherence of various G.Rs. and Circulars which provide for completion of departmental enquiry within 6 months or maximum within one year. The applicant is subjected to suspension for more than 3 months.

6. In view of the decision of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary V/s. Union of India Through its Secretary & Anr.** suspension beyond 90 days is impermissible. Respondent no.1 has not passed any order for continuation of the suspension or otherwise. As such, no purpose would serve by continuing the applicant under suspension particularly when the applicant is already transferred from the place where he committed the alleged misconduct and there is no threat to fair enquiry. Suspension, therefore, deserves to be revoked and applicant is required to be reinstated in service.

7. In view of above, O.A. is disposed of with following directions:

- (a) Respondent no.1 is directed to reinstate the applicant within 2 weeks from today and suspension is deemed to have been revoked with effect from today.
- (b) Respondent no.1 is further directed to complete the departmental enquiry including passing final order therein within 3 months from today without fail.
- (c) There shall be no order as to costs.

(A.P.KURHEKAR)
MEMBER (J)

Place : Aurangabad
Date : 16.02.2021.