

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.858/2022

DISTRICT:- BEED

Asif s/o. Abdul Rauf Mulla,
Age : 50 years, Occu. : Service as Sub-Registrar,
Valuation, Beed.
R/o. Dhande Nagar, Barshi Road,
Tq. & Dist. Beed.

...APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through its Principal Secretary,
Department of Revenue & Forest,
Mantralaya, Mumbai-32.
- 2) The Inspector General of Registration,
New Administration Building, Ground Floor,
In front of Council Hall, M.S. Pune.
- 3) The Joint District-Registrar Office,
Satara, Tahasil Office Compound,
Tq. & Dist. Satara.
- 4) The District Collector (Stamp & Valuation),
Collector Office, Beed. **...RESPONDENTS**

APPEARANCE :Shri Ganesh V. Mohekar, Counsel for
Applicant.

:Shri V.R.Bhumkar, Presenting Officer
for the respondents.

CORAM : JUSTICE P.R.BORA, VICE CHAIRMAN

Decided on : 18-04-2023.

ORAL ORDER:

1. Heard Shri Ganesh V. Mohekar, learned Counsel appearing for the applicant and Shri V.R.Bhumkar, learned Presenting Officer representing the respondent authorities.

2. The applicant was suspended on 24-02-2014 since a complaint was filed against him with the Anti-Corruption Bureau on 21-01-2014. In the said matter applicant was arrested, however, was released on the same day. In the order of suspension it was also indicated that departmental enquiry is contemplated against the applicant. As is revealing from the pleadings in the O.A. as well as in the affidavit in reply statement of charge in the departmental enquiry was served upon the applicant on 16-05-2015. The suspension was revoked vide order dated 27-05-2020 and the applicant was reinstated in service. It is the grievance of the applicant in present application that after he was suspended, no review of the order of suspension was taken by the authorities. It is his further contention that in view of the judgment delivered by the Hon'ble Apex Court in the case of **Ajay Kumar Choudhary V/S. Union of India (UOI) and Ors., (2015) 7 SCC 291**, his

suspension shall be deemed to have been revoked after expiry of 90 days and he shall be held entitled for all consequential benefits. The applicant with the aforesaid request had preferred a detailed representation to respondent no.2 on 10-06-2022. Copy of the said representation is filed at Exhibit E along with the O.A. As has been submitted by the learned Counsel for the applicant, respondents have not given any reply to the said representation and till date have not decided the said representation.

3. Shri Mohekar, learned Counsel appearing for the applicant invited my attention also to the document filed by the applicant along with his rejoinder which is at Annexure R-6 i.e. Government Order dated 11-05-2022 passed in the case of one Shri Laxmikant Mahadev Musale. It is the grievance of the applicant that the relief given to said Shri Musale has not been extended to the present applicant and the respondents have given discriminatory treatment to the applicant. In the affidavit in reply, respondents have taken a stand that criminal prosecution is still pending against the applicant and till then the decision in the departmental enquiry also will have to be kept in abeyance. Respondents have relied upon G.R. dated 03-04-2000 in that regard.

4. After having considered the submissions advanced by learned Counsel for the applicant and learned P.O. for respondents and more particularly after having perused the order dated 11-05-2022 i.e. Annexure R-6, it prima facie appears that the respondents have given discriminatory treatment to the applicant. In the circumstances, it appears to me that the present O.A. can be disposed of by directing the respondents to decide the representation submitted by the present applicant on 10-06-2022 having regard to the guidelines laid down in the case of Ajay Kumar Choudhary (cited supra) by the Hon'ble Apex Court and considering the parameters applied while deciding the case of Shri Laxmikant Mahadev Musale within 4 weeks from the date of this order. Needless to state that, even then if grievance remains, it will be open for the applicant to approach this Tribunal.

5. I have duly considered the submissions made on behalf of the applicant as well as the respondents. I have also gone through the documents placed on record. Applicant was suspended vide order dated 24-02-2014. Admittedly, neither the chargesheet was filed in the criminal case registered against the applicant nor the

statement of charge was issued to the applicant in the departmental enquiry contemplated against him within the period of 90 days from the date order of suspension. As is revealing from the record the statement of charge in the departmental enquiry was served upon the applicant on 16-05-2015. The record further reveals that the departmental enquiry was completed in the year 2016 itself. No final decision, however, has been taken and it has been deferred till decision of the criminal prosecution against the applicant in view of the G.R. dated 03-04-2000. It is difficult to agree with the decision so taken by the respondents. However, I am not indulging in making any more discussion on the said issue. The suspension of the applicant was revoked on 27-05-2020 and he was reinstated in service.

6. As has been submitted by the learned Counsel, the applicant has submitted a representation on 10-06-2022 wherein he has prayed that his suspension shall be deemed to have been revoked after expiry of 90 days from the date of his order of suspension and to provide him all consequential benefits. The respondents have admittedly not decided the said representation, may be for the reason

that the applicant filed the present O.A. within few days after filing of the said representation.

7. In the present O.A., the applicant has placed on record order dated 11-05-2022 passed by the Government in the case of one Shri Laxmikant Mahadev Musale. Perusal of the aforesaid order reveals that the said Laxmikant Musale was suspended vide order dated 25-11-2014 retrospectively w.e.f. 01-11-2014 as an offence under Prevention of Corruption Act was registered against him. Vide order dated 31-05-2018 he was reinstated in service. Said Shri Musale preferred an application praying for extending admissible benefits in the period of suspension by filing an application dated 02-03-2022. The application so submitted by said Shri Musale has been allowed by the Government vide order dated 11-05-2022. The Government has passed an order that Shri Musale be deemed to have been reinstated in service on expiry of the period of 90 days from the date of his suspension i.e. from 01-02-2015. It is further ordered that Shri Musale be paid the salary and the allowances of the period between 02-02-2015 till 31-05-2018 i.e. the date on which he was reinstated equivalent to the salary and allowances which

he would have earned had he not been suspended. It has also been ordered that the period of suspension shall be considered as on duty period for all purposes. It is further ordered that in so far as the period between 01-11-2014 to 31-01-2015 is concerned, the appropriate decision shall be taken after criminal prosecution against said Shri Musale is concluded.

8. It is the contention of the applicant that the respondents must have considered the representation and the request made by the applicant on the similar lines as was considered in the case of Shri Laxmikant Mahadev Musale. Learned Counsel for the applicant alleged that by not applying the same parameters, the respondents have practiced discrimination in so far as the applicant is concerned. The allegation as has been made by the applicant cannot be accepted for the reason that after making representation on 10-06-2022 without waiting for the reasonable period the applicant has hurriedly filed the present O.A. in September, 2022.

9. In the aforesaid circumstances, it appears to me that the present O.A. can be disposed of by directing the respondents to decide the representation submitted by the

present applicant on 10-06-2022 within 4 weeks from the date of this order in light of the guidelines laid down by the Hon'ble Apex Court in the case of **Ajay Kumar Choudhary V/s. Union of India (UOI) and Ors., [(2015) 7 SCC 291 : AIR 2015 SC 2389]** and having regard to the decision taken by the Government in identical fact situation in the case of one Shri Laxmikant Mahadev Musale on 11-05-2022. Needless to state that even then if any grievance remains, it would be open for the applicant to approach this Tribunal. O.A. stands disposed of in the aforesaid terms. No costs.

VICE CHAIRMAN

Place : Aurangabad
Date : 18.04.2023.