

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 1002 / 2019 (S.B.)

Prakash S/o Lahuji Dhurandar,
Aged about 54 years, Occ. Agriculture Officer
(presently suspended for service) R/o C/o Sandip Bhoyar,
Vitthalwadi, Yeotmal, Tah. and District Yeotmal.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Agriculture,
Animal Husbandry,
Dairy Development and Fisheries Department,
Madam Cama Marg, Mumbai- 32.
- 2) The Desk Officer,
Government of Maharashtra,
Department of Agriculture,
Animal Husbandry,
Dairy Development and Fisheries Department,
Madam Cama Marg, Mumbai-32.
- 3) The Commissioner,
Agriculture Department,
Pune office at Agricultural
Collectorate, Maharashtra
State Central Building,
Pune-411 001.
- 4) The Joint Director,
(Agriculture), Amravati Division,
Amravati.
- 5) The District Agricultural Officer,
Yeotmal, District Yeotmal.

Respondents

Shri D.H.Sharma, Id. Advocate for the applicant.

Shri V.A.Kulkarni, Id. P.O. for the Respondents.

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

JUDGMENT

Judgment is reserved on 27th July, 2022.

Judgment is pronounced on 02nd August, 2022.

Heard Shri D.H.Sharma, ld. counsel for the applicant and Shri V.A.Kulkarni, ld. P.O. for the Respondents.

2. In this O.A. the applicant has impugned order of his suspension dated 01.02.2019 (A-2) and chargesheet dated 24.05.2019 (A-3) served on him by respondent no. 2. He is also claiming consequential benefits. It is his contention that chargesheet was not served on him within 90 days from the date of his suspension and in view of settled legal position both the impugned orders are required to be quashed and set aside.

3. The applicant was placed under suspension by exercising powers under Rule 4 (1) (c) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 in contemplation of initiation of departmental enquiry.

4. By chargesheet dated 24.05.2019 following charges were laid :-

“बाब एक- श्री प्रकाश लहुजी धुरंधर, कृषि अधिकारी हे दिनांक ३०/०८/२०१६ ते दिनांक ३१/०८/२०१६ व दिनांक ०१/०९/२०१६ ते दिनांक १३/०९/२०१६ या कालावधीत आणि दिनांक १५/०९/२०१६ पासून सतत अनधिकृत गैरहजर राहणेबाबत.

बाब दोन- श्री प्रकाश गेमा राठोड यांचेकडून रोख रक्कम रु. ७,५०,०००/- व चेकने रु. २,५०,०००/- अशी एकूण रु. १०,००,०००/- घेऊन फसवणूक केल्याबाबत श्री प्रकाश लहुजी धुरंधर कृषी अधिकारी यांचेविरुद्ध बंडगार्डन पोलिस स्टेशन पुणे येथे गुन्हा नंबर - ३३/२०१७ भा.दं.वि. कलम ४२० नुसार गुन्हा दाखल झाल्याबाबत.

बाब तीन- कार्यालयीन पत्रव्यवहार, नोटिस, झापन न स्विकारणे वरिष्ठांचे आदेशाचे पालन न करणेबाबत.”

5. The applicant has relied on G.R. dated 09.07.2019 (A-5) issued by G.A.D., Government of Maharashtra and Office Memorandum dated 23.08.2016 (A-6) issued by Ministry of Personnel, Public Grievances and Pension, DoPT which reiterates the following legal position laid down in **Ajay Kumar Chaudhary Vs. Union of India (Civil Appeal No. 1912/2015 decided on 16.02.2015) :-**

“14 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 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.”

6. Relying on the aforequoted legal position the applicant made representations dated 11.04.2019 and 22.06.2019 (A-7 and A-8, respectively).

7. Reply of respondents 4 & 5 is at pages 46 to 50. Their contentions are:-

“1. Offence of cheating punishable under Section 420, IPC was registered against the applicant.

2. On account of registration of offence the applicant was placed under suspension as D.E. was contemplated.

3. D.E. commenced by issuing chargesheet dated 24.05.2019.

4. On 22.06.2019 the applicant submitted his reply to the chargesheet.

5. By order dated 04.11.2019 (A-R-1) Enquiry Officer and Presenting Officer were appointed.

6. By communication dated 31.12.2020 (A-R-2) the applicant was informed that enquiry proceeding was kept on 26.02.2021.

7. Respondent no. 4 has passed an order dated 12.10.2020 (A-R-3) for payment of subsistence allowance to the applicant as per Rules.

8. As per G.R. dated 14.10.2021 (A-R-4) matter of suspension of the applicant was placed before Review Committee with proposal (A-R-5).

9. Minutes of Review Committee's meeting dated 19.01.2021 (A-R-6) show that it has proposed revocation of suspension of the applicant and his reinstatement on a non-executive post.”

8. Shri D.H.Sharma, Id. Counsel for the applicant submitted that inspite of aforesaid recommendation the applicant is still under suspension.

9. Having regard to facts of the case and legal position applicable thereto suspension of the applicant deserves to be revoked. Since the enquiry was initiated on 24.05.2019 it would be proper to direct respondent no. 3 to conclude the same within the stipulated time. Hence, the order:-

ORDER

Original Application is allowed in the following terms:-

1. Order dated 01.02.2019 (A-2) is quashed and set aside.
2. The applicant shall be reinstated as per recommendation of the review committee **within three weeks from today**, and he shall be entitled to all consequential benefits.
3. Respondent no. 3 is directed to complete the enquiry against the applicant **within three months from the date of receipt of this order.**
4. No order as to costs.

(Shri 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 : Akhilesh Parasnath Srivastava.

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

Judgment signed on : 02/08/2022.
and pronounced on

Uploaded on : 03/08/2022.