

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

Original Application No.1089 of 2018

Shri Sunil S/o Murlidhar Dusane)
Age – 55yrs, Occ- Service as)
Assistant Town Planner at Ambernath)
Municipal Council, Ambernath.)
R/o 21-B/1203, Regency Estate Dombivali,)
Tal-Kalyan, Dist- Thane.)Applicant

Versus

1. The State of Maharashtra)
Through Principal Secretary,)
Urban Development Department,)
Mantralaya, Mumbai – 32.)
2. The Director,)
Director of Town Planning (M.S.))
Central Building, Pune-1.)
3. The Chief Officer,)
Municipal Council, Kulgaon Badlapur,)
Dist. Thane.)....Respondent s

Shri V.P. Potbhare, learned Advocate for the Applicant.

Smt. K.S. Gaikwad, the learned for the Respondents.

CORAM : Shri A.P. Kurhekar, Member (J)

DATE : 14.12.2018.

ORDER

1. Heard Shri V.P. Potbhare, the learned Advocate for the Applicant and Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents, at the stage of admission.
2. In present Original Application, challenge is to the suspension order dated 28.11.2018 passed under Section 4(1) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979. Perusal of record reveals that the Applicant has also filed appeal before Competent Authority on 1.12.2018 which is not yet decided.
3. Learned P.O. for the Respondents raised objection on the point of maintainability of O.A. as appropriate alternate remedy is not exhausted.

4. Material to note that the suspension order is appealable as provided under section 17 (i) of MCS Rules 1979. At this juncture, it would be appropriate to refer section 20 of Maharashtra Administration Tribunal's Act, 1989 which provides that a Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. Thus, the Applicant has already filed appeal before the Competent Authority and simultaneously, approached this Tribunal challenging the impugned order without waiting for the decision in appeal. Thus, the Original Application is premature.

5. As per section 20 (B) of Maharashtra Administrative Tribunal Act, 1985 the Tribunal can entertain the application if no final order has been passed in the appeal within six months from the date of filing of appeal. This being a position, if the appeal is not decided within six months in that event, the Applicant can approach this Tribunal by filing Original Application. Learned Advocate for the Applicant also concedes this legal position.

6. In view of above, Original Application is disposed of with liberty to Applicant to approach this Tribunal, after six months, if required, which will be dealt with in accordance to law. No order as to costs.

(A.P. Kurhekar)
Member (J)

sba