

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 503/2023 (S.B.)

Mangesh Ramesh Lade,
Aged about 30 years,
R/o Morgaon Arjuni, Post - Arjuni Morgaon,
Tah. & Dist. Gondiya.

Applicant.

Versus

- 1) The State of Maharashtra,
Through it's Secretary,
Urban Department,
Mantralaya, Mumbai.
- 2) The Commissioner &
Director of Municipal Administration,
Mumbai.
- 3) Chief Officer,
Municipal Council, Kamptee, District - Nagpur.

Respondents

Shri N.R.Saboo, the Id. Advocate for the applicant.

Shri S.A.Sainis, the Id. P.O. for the respondents 1 & 2.

Ms. Aakansha Datrak, Id. counsel for the respondent no. 3.

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

JUDGMENT

Judgment is reserved on 31st Oct., 2023.

Judgment is pronounced on 01st Nov., 2023.

Heard Shri N.R.Saboo, ld. counsel for the applicant, Shri S.A.Sainis, ld. P.O. for the Respondents 1 & 2 and Ms. Aakansha Datrak, ld. counsel for the respondent no. 3.

2. Case of the applicant is as follows. The applicant is working as Civil Engineer in the respondent department. Crime No. 66/2023 was registered against him at Sitabuldi, Nagpur Police Station u/ss 323, 324, 328 & 355 of I.P.C. on 05.02.2023. He was in custody from 05.02.2023 till his release on bail on 10.02.2023. By order dated 09.05.2023 (A-1) respondent no. 2 placed him under suspension as provided under rule 4 (2) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 w.e.f. 05.02.2023. By order dated 20.07.2023 (A-7) respondent no. 2 extended suspension period of the applicant from 05.05.2023 till receipt of recommendation from Review Committee for revocation. In view of G.R. dated 09.07.2019 (A-4) orders dated 09.05.2013 (A-1) and 20.07.2013 (A-7) cannot be sustained. Hence, this Original Application.

3. Stand of respondent no. 2 is that since the power to consider revocation/extension of order of suspension vests with the Review Committee, order dated 20.07.2023 (A-7) cannot be faulted.

4. Stand of respondent no. 3 is that G.R. dated 09.07.2019 is not applicable to the facts of case of the applicant.

5. G.R. dated 09.07.2019 reads as under:-

शासन निर्णय :-

निलंबित शासकीय अधिकारी / कर्मचाऱ्यांच्या निलंबनाची कारणे व त्यांचे गांभीर्य यानुसार त्यांच्या प्रकरणांचा आढावा घेण्यासंदर्भात शासनाने वेळोवेळी वर संदर्भामध्ये दर्शविल्यानुसार शासन निर्णय निर्गमित केले आहेत. श्री अजयकुमार चौधरी विरुद्ध युनियन ऑफ इंडिया (सिव्हिल अपिल क्र. १९१२/२०१५) मध्ये मा. सर्वोच्च न्यायालयाने दि. १६/०२/२०१५ रोजी दिलेल्या निर्णयाच्या परिच्छेद १४ मधील आदेश खालीलप्रमाणे आहेत.

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 the 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.

२. मा. सर्वोच्च न्यायालयाने वरीलप्रमाणे दिलेल्या दि. १६/०२/२०१५ च्या निर्णयाचे अनुषंगाने केंद्र सरकारचा दि. २३ ऑगस्ट, २०१६ रोजीचा कार्यालयीन आदेश सोबत जोडला आहे. मा. सर्वोच्च न्यायालयाचा निर्णय व केंद्र सरकारचा कार्यालयीन आदेश पाहता निलंबित शासकीय कर्मचाऱ्यांना ९० दिवसांच्या मुदतीत दोषारोप पत्र

बजावून त्यांच्या निलंबनाच्या आढाव्या संदर्भातील तरतुदी सुधारण्याची बाब शासनाच्या विचाराधीन होती.

शासन निर्णय :-

१. या अनुषंगाने शासकीय कर्मचाऱ्यांच्या निलंबनाचा आढावा घेण्यासंदर्भात पुढीलप्रमाणे सूचना देण्यात येत आहेत.

i) निलंबित शासकीय सेवकांच्या ज्या प्रकरणी ३ महिन्यांच्या कालावधीत विभागीय चौकशी सुरु करून दोषारोप पत्र बजावण्यात आले आहे, अशा प्रकरणी निलंबन केल्यापासून ३ महिन्यात निलंबनाचा आढावा घेऊन निलंबन पुढे चालू ठेवावयाचे असल्यास त्याबाबतचा निर्णय सुस्पष्ट आदेशासह (कारण मिमांसेसह) सक्षम प्राधिकाऱ्यांच्या स्तरावर घेण्यात यावा.

ii) निलंबित शासकीय सेवकांच्या ज्या प्रकरणी ३ महिन्यांच्या कालावधीत विभागीय चौकशी सुरु करून दोषारोप पत्र बजावण्यात आले नाही, अशा प्रकरणी मा. सर्वोच्च न्यायालयाचे आदेश पाहता, निलंबन समाप्त करण्याशिवाय अन्य पर्याय राहत नाही. त्यामुळे निलंबित शासकीय सेवकांबाबत विभागीय चौकशीची कार्यवाही सुरु करून दोषारोप पत्र बजावण्याची कार्यवाही निलंबनापासून ९० दिवसांच्या आत काटेकोरपणे केली जाईल याची दक्षता / खबरदारी घेण्यात यादी.

iii) फौजदारी प्रकरणात विशेषतः लाचलुचपत प्रकरणी निलंबित शासकीय सेवकांवर विभागीय चौकशी सुरु करून दोषारोप पत्र बजावणेबाबत आवश्यक तो अभिलेख लाचलुचपत प्रतिबंधक विभागाने संबंधीत प्रशासकीय विभागास उपलब्ध करून देणे आवश्यक राहिल.

6. In the instant case neither chargesheet in criminal case was filed nor chargesheet of departmental enquiry served to the applicant within 90 days from the date on which he was placed under suspension. Consequently, order dated 20.07.2023 extending period of suspension

cannot be sustained. Question of extending period of suspension would have arisen had chargesheet been served within 90 days from the date of order of suspension. Hence, the order:-

O R D E R

The O.A. is allowed in the following terms. The respondents are directed to revoke order of suspension and reinstate the applicant within 30 days from today. Order dated 20.07.2023 (A-7) extending suspension period is quashed and set aside. No order as to costs.

Member (J)

Dated :- 01/11/2023

aps

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 : 01/11/2023
and pronounced on

Uploaded on : 02/11/2023