

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 1065 / 2021 (S.B.)

Shamrao S/o Hiraman Rathod,
Aged about 53 years, Occ. Service (At present under suspension),
R/o Ankita Park, Near Christian Church, Govind Nagar, Pusad,
Dist. Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra,
Through it's Additional Chief Secretary,
Home Department,
Mantralaya, Mumbai- 400 032,
- 2) The Superintendent of Police Yavatmal,
Having its office, LIC Chowk,
Yavatmal, Tq. and Dist. Yavatmal - 445001.

Respondents

Shri S.P.Palshikar, the Id. Advocate for the applicant.

Shri S.A.Deo, the Id. C.P.O. for the respondents.

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

JUDGMENT

Judgment is reserved on 03rd January, 2022.

Judgment is pronounced on 06th January, 2022.

Heard Shri S.P.Palshikar, Id. counsel for the applicant and Shri S.A.Deo, Id. C.P.O. for the Respondents.

2. In this application the applicant is seeking relief of revocation of order of his suspension (A-1) passed by respondent no. 2 on 10.09.2020.

3. By the impugned order the applicant was placed under suspension. On the allegation of demand of bribe crime no. 201/2020 came to be registered against the applicant on complaint of one Shri Chandrabhan Bhelke under Section 7 of the Prevention of Corruption Act on 09.09.2020, respectively.

4. The applicant prays for revocation of the impugned order on the following grounds:-

5. By order dated 02.12.2020 (A-2) inquiry officer was appointed and departmental inquiry was started. In the departmental inquiry witnesses were examined. Their depositions are at A-3. Thereafter, statement of the applicant was recorded which is at A-4.

6. On 03.01.2021 the applicant filed representation (A-5) before respondent no. 2 for revocation of order of suspension passed against him. Final statement of the applicant by way of his defence in the departmental inquiry was recorded on 23.03.2021 which is at A-6.

7. It is the contention of the applicant that further continuance of order of suspension passed against him would be bad in Law and hence it deserves to be revoked.

8. In support of prayer for revocation of order of suspension the applicant has relied on G.R. dated 09.07.2019 issued by G.A.D.. In this G.R. following observations of the Hon'ble Supreme Court made in the case of Ajay Kumar Chaudhary Vs. Union of India, A.I.R. 2015, Supreme Court 2391 have been quoted :-

"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."

On the basis of these observations following guidelines have been issued :-

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9. The applicant has also relied on Judgments dated 06.05.2021 and 01.09.2021 passed by this Tribunal in O.A. Nos. 312/2021 (A-5) and 560/2021 (A-6), respectively. In these cases this Tribunal revoked suspension of the applicant by relying on aforesaid Judgment of the Hon'ble Supreme Court, G.R. of G.A.D. and Judgment passed by the Hon'ble Bombay High Court on 17.07.2019 in W.P. No. 7506/2018 (A-4) wherein following observations have been made:-

"The Government has recently issued a resolution dated 09.07.2019 giving detailed guidelines and directions for dealing with cases of those employees who are placed under suspension and against whom the charge-sheet has been issued. In the present case, charge-sheet has already been issued and 3 months period has been over long back and therefore, the facts of this case are squarely covered by the Government Resolution dated 09.07.2019, calling for necessary intervention by this Court."

10. In connected proceedings bearing O.A. No. 1063/2021 chart is filed in respect of Police Personnel who are presently placed under suspension. In this chart it is mentioned that departmental inquiry has been completed and recommendation is made to demote the applicant. It is further mentioned in the chart that A.C.B. is yet to file chargesheet against the applicant in the court. The chart further refers to order passed by reviewing authority in respect of continuance of suspension of the applicant. As per this order suspension of the applicant was

extended/continued because chargesheet is yet to be filed in the court against him by A.C.B..

11. I have quoted all 3 clauses of G.R. dated 09.07.2019. Clause (i) mandates that in a case where departmental enquiry is commenced by issuing chargesheet on the delinquent within three months of his suspension, on completion of said period of three months the competent authority has to take the decision regarding continuance of order of suspension and such order should be clear and supported by reasons. The order passed in the instant case by the reviewing authority cannot be said to be in consonance with clause (i) of G.R. dated 09.07.2019.

12. I have also quoted observations made by the Bombay High Court in W.P. No. 7506/2018. These observations fully support case of the applicant that further continuance of order of suspension passed against him would not be sustainable in Law.

13. For all these reasons the application will succeeded. Hence, the order:-

ORDER

The O.A. is allowed in the following terms:-

- A. The impugned order of suspension dated 10.09.2020 (A-1) is revoked.
- B. The respondents shall issue consequential order within 30 days from the date of receipt of this order.
- C. No order as to costs.

Member (J)

Dated :- 06/01/2022.

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 Vice Chairman.

Judgment signed on : 06/01/2022.
and pronounced on

Uploaded on : 07/01/2022.