

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 1066 / 2021 (S.B.)

1. Prem S/o Suka Rathod,
Aged about 52 years, Occ. Service (At present under suspension),
R/o K.N.Park, Arni Road, Darwha,
Dist. Yavatmal.

2. Girish S/o Shriram Madavi,
Aged about 32 years, Occ. Service (At present under suspension),
R/o Anushree Park, Pimpalgaon
Road, Yavatmal

Applicants.

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 applicants and Shri S.A.Deo, Id. C.P.O. for the Respondents.

2. The applicants have impugned the order dated 09.10.2020 passed by respondent no. 2 placing them under suspension (A-1). It is alleged that the applicants were guilty of gross dereliction of duty and moral turpitude.

3. The applicants pray for revocation of impugned order on following grounds-

(i) Suspension beyond 90 days is contrary to the Law laid down by the Hon'ble Supreme Court.

(ii) Representations (A-3, A-4 & A-5) made by the applicants for revocation of suspension were not considered by respondent no. 2.

(iii) By order dated 06.01.2021 (A-6) respondent no. 2 appointed inquiry officer and initiated departmental inquiry. The inquiry officer was directed to complete the departmental enquiry within three months. However, there has been no significant progress in the departmental enquiry.

(iv) Further continuance of suspension of the applicants would be contrary to G.R. dated 09.07.2019 (A-7) issued by G.A.D., Government of Maharashtra.

4. In support of their prayer for revocation of suspension the applicants have relied on G.R. dated 09.07.2019 (A-7) wherein following observations made in 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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5. The applicants have 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."

6. In connected proceeding 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 stated that on 21.11.2020 departmental inquiry has been initiated against the applicants, S.D.P.O. Pusad has been appointed as inquiry officer and report of the inquiry is awaited. It is further mentioned in the chart that against the applicants A.C.B. has filed chargesheet in the Court on 14.09.2021. In the column of order passed by the reviewing authority regarding continuance of suspension of the

applicants it is mentioned that their suspension has been extended because report of departmental enquiry is yet to be received.

7. The Id. C.P.O. has invited attention of the Tribunal to Clause (iii) of the G.R. dated 09.07.2019. Said Clause is already quoted.

8. Clause (i) of the G.R. dated 09.07.2019 lays down that in cases where chargesheet is served on the delinquent within three months of suspension, the matter of continuance of suspension is to be reviewed by the competent authority and in case suspension is to be extended/continued the reviewing authority should pass clear and reasoned order. I have referred to the order passed in the case by the reviewing authority. Said order is not as per clear guidelines contained in Clause (i) of G.R. dated 09.07.2019. I have also referred to the observations made by the Hon'ble Bombay High Court in W.P. No. 7506/2018. These observations also support contention of the applicants that further continuance of their suspension will not be sustainable in Law. For all these reasons the application deserves to be allowed. Hence the order:-

ORDER

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

- A. The impugned order of suspension dated 09.10.2020 (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.