

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 337/2023(S.B.)**

Gopichand s/o Ramkrushna Sanap,  
Aged about 32 years,  
Occupation: Service,  
R/o C/o Jagdale, Near Meher Mandir,  
Seloo, Tah. Seloo, District –Wardha.

**Applicant.**

**Versus**

1. The State of Maharashtra,  
Through its Secretary,  
Public Health Department,  
Mantralaya, Mumbai –32.
2. Director, Public Health Department,  
Saint George Hospital, Mumbai.
3. District Malaria Officer,  
Office at old Z.P. Building,  
Near District Hospital,  
Wardha, Tah. and District-Wardha.

**Respondents**

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Smt.S.V.Kolhe, Ld. counsel for the applicant.  
Shri A.M.Ghogre, Ld. P.O. for the respondents.

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**Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.**

**Dated: - 04<sup>th</sup> May 2023.**

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**JUDGMENT**

Heard Smt.S.V.Kolhe, learned counsel for the applicant and Shri A.M.Ghogre, learned P.O. for the Respondents.

2. The case of the applicant in short is as under-

The applicant was appointed on the post of Health Worker on 25.09.2017. He was posted at Primary Health Centre, Dahegaon, District Wardha. On 24.10.2021 the offence punishable under Sections 406, 409 r/w Section 120-B of the I.P.C. registered against the applicant. The applicant was kept under suspension as per the order dated 07.03.2022. The departmental enquiry was initiated against the applicant. The Enquiry Officer completed enquiry and submitted the report to the Appointing Authority. No any decision is taken by the Appointing Authority till date. Hence, the applicant prayed for revocation of his suspension.

3. On the last date P.O. was directed to get instructions as to how the suspension was continued. As per the submission of learned P.O., no decision is taken by the Appointing Authority because of the pendency of Criminal Case against the applicant.

4. With the consent of both learned counsel for parties, the O.A. is heard and decided finally. As per the submission of learned counsel for applicant Mrs. Kolhe, the Hon'ble Supreme Court in the case of

**Ajay Kumar Choudhary Vs. Union of India and Another, (2015) 7**

**SCC 291** given the guidelines not to continue the suspension period after completion of 90 days from the date of suspension, if the charge sheet is not filed. The Hon'ble Supreme Court in the case of Premnath Bali has held that if the enquiry is not completed within one year, the enquiry is to be quashed.

5. Learned counsel for the applicant has pointed out G.R. dated 09.07.2019. This G.R. was issued by Government of Maharashtra after the Judgment of Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India and Another (cited supra)**.

6. As per the guidelines given in the G.R., the suspension shall not be continued after completion of three months, if the charge sheet is not served. If the Appointing Authority wants to continue the suspension, then reasoned order should be passed.

7. In the present matter, the departmental enquiry is completed and the report is submitted by the Enquiry Officer on 01.09.2022. As per the enquiry report, none of the witnesses stated against the applicant, therefore, the Enquiry Officer proposed to exonerate the applicant against the charges levelled against him. Till date no decision is taken by the Appointing Authority. As per the guidelines given in the G.R., the respondents are bound to take a decision to

continue the suspension. While passing such order, the reason should be given, but nothing is done by the respondents. The prayer in the O.A. is in respect of for revocation of suspension. The pendency of the Criminal Case cannot be a ground to continue the suspension. The Criminal Case may be decided after 10 - 20 years and after 20 years the respondents may reinstate the applicant and applicant will get all the back wages. This is not expected from the respondents. Hence, the following order.

**ORDER**

- 1) The O.A. is allowed.
- 2) The suspension order dated 07.03.2022 is hereby revoked.  
The respondents are directed to reinstate the applicant within a period of one month from the date of receipt of this order.
- 3) No order as to costs.

(Justice M.G.Giratkar)  
Vice Chairman

Dated – 04/05/2023

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde  
Court Name : Court of Hon'ble Vice Chairman.  
Judgment signed on : 04/05/2023.