

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 338/2023(S.B.)**

Kailash Gulabrao Hatkar,  
Aged-36 years, Occ-Service,  
R/o 306, Saptashrunji Residency,  
D.P. Road, Raigadh Colony,  
Khamgaon, Dist.Buldhana.

**Applicant.**

**Versus**

1. State of Maharashtra,  
through its Secretary,  
Department of Home,  
Mantralaya, Mumbai -32.
2. Superintendent of Police,  
Buldhana.

**Respondents**

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Shri R.V.Shiralkar, 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 Shri R.V.Shiralkar, 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-

It appears that the applicant is suspended as per the order dated 30.11.2022. The applicant was working as a Driver (Police Constable). While driving the four wheeler vehicle of Police Department, he could not drive vehicle properly and therefore there was an accident. Offence punishable under Sections 279 and 427 of the Indian Penal Code (I.P.C.) was registered against the applicant. Therefore, the applicant is suspended as per the order dated 30.11.2022.

3. As per the submission of learned counsel for the applicant, no any charge sheet is issued to the applicant till date. The applicant has filed the Criminal Application No.1649/2022 before the Hon'ble Bombay High Court, Bench at Nagpur. The Hon'ble Bombay High Court as per the order dated 27.02.2023 quashed the FIR in Crime No.0569/2022 for the offence punishable under Sections 279 and 427 of the I.P.C.. Nothing is on record to show that there is any Criminal Case pending against the applicant. The FIR in question is quashed by the Hon'ble Bombay High Court. No any charge sheet or departmental enquiry is issued to the applicant. Therefore, continuation of suspension is not legal and proper. The Hon'ble Supreme Court in the case of *Ajay Kumar Chaudhary Vs. Union of*

**India through its Secretary and another** (cited above) has held that the suspension shall not continue after 90 days, if the charge sheet is not given to the delinquent employee. The Government of Maharashtra has also issued G.R. G.A.D. शासन निर्णय क्र. ११८/प्र.क्र.११/११अ, दिनांक ०९.०७.२०१९. The para nos. 1 (i, ii & iii) of the said G.R. are reproduced as under:-

- 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 घेउन निलंबन पुढे चालू ठेवावयाचे असल्यास त्याबाबतचा निर्णय सुस्पष्ट आदेशासह (कारण मिमांसेसह) नक्षम प्राधिका-याच्या स्तरावर घेण्यात यावा.
- ii) निलंबित शासकीय सेवकांच्या ज्या प्रकरणी ३ महिन्यांचा 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 यावी.
- iii) फौजदारी प्रकरणात विशेषतः लाचलुचपत प्रकरणी निलंबित शासकीय सेवकांवर विभागीय चौकशी सुरु करून दोषारोप पत्र बजावणेबाबत आवश्यक तो अभिलेख लाचलुचपत प्रतिबंधक विभागाने संबंधित प्रशासकीय विभागास उपलब्ध करून देणे आवश्यक राहिल.

4. In view of the Judgment of Hon'ble Supreme Court in the case of **Ajay Kumar Chaudhary Vs. Union of India through its Secretary and another** (cited above) and the Government of Maharashtra G.R. G.A.D. शासन निर्णय क्र. ११८/प्र.क्र.११/११अ, दिनांक ०९.०७.२०१९, the following order is passed-

**ORDER**

- 1) The O.A. is allowed.
- 2) The suspension order dated 30.11.2022 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.