

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 644/2023 (S.B.)

Prashant Venkartrao Badgire
Aged about 52 years,
Occ. Service R/o.Ranpise Nagar, Akola.

Applicant.

Versus

- 1) State of Maharashtra,
Through its Secretary,
Public Health Department,
Mantralaya, Mumbai - 32.
- 2) Commissioner,
Public Health Commissionerate,
Arogya Bhavan, Sait Jorg Hospital,
P.Demilo Road, Mumbai.
- 3) Dy. Director,
Health Services,
Near District Collector Office,
Barshi Road, Latur.

Respondents

Shri G.K.Bhusari, Ld. Counsel for the applicant.
Shri S.A.Sainis, Ld. P.O. for the respondents.

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

Dated:- 1st November, 2023.

JUDGMENT

Judgment is reserved on 27th October, 2023.

Judgment is pronounced on 1st November, 2023.

Heard Shri G.K.Bhusari, learned counsel for the applicant and Shri S.A.Sainis, learned P.O. for the respondents.

2. Facts necessary to decide this O.A. are as follows. On 26.11.2021 when the applicant was working as Chief Administrative Officer at Latur in the respondent department, Crime No.43/2021 was registered against him at Cyber Police Station, Pune and by order dated 09.12.2021 (Annexure A-1) he was placed under suspension. He and the co-delinquents were chargesheeted on 27.06.2022 (Annexure A-6). Since he was not chargesheeted within 90 days from the date on which he was placed under suspension, the applicant submitted an application on 22.08.2022 (Annexure A-5) for revocation of order of suspension. This request went unheeded. Hence, this O.A..

3. The respondents have not filed reply though sufficient time was given to do so.

4. In **Ajay Kumar Chaudhary Vs. Union of India 2015(2) SCALE 432**, the Hon'ble Supreme Court has held-

"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 / Charge-sheet is not served on the delinquent officer / employee, if the Memorandum of Charges / Charge- sheet is served, a reasoned order must be passed for the extension of the suspension."

5. In G.R. dated 09.07.2019 it is laid down-

"निलंबित शासकीय सेवकांच्या ज्या प्रकरणी 3 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 90 दिवसांचे आत काटेकोरपणे केली जाईल याची दक्षता / खबरदारी घेण्यात यावी. "

6. In Judgment dated 17.07.2009 in W.P.No.7506/2018 the Hon'ble Bombay High Court has observed –

2. 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.

7. The legal position discussed above shows that the impugned order of suspension cannot be sustained since the applicant was chargesheeted after lapse of 90 days from the date on which he was placed under suspension. Hence, the order.

ORDER

1. The O.A. is allowed.
2. The impugned order dated 09.12.2021 (Annexure A-1) shall stand revoked.

3. The respondents are directed to reinstate the applicant within
30 days from today.
4. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 01/11/2023
rsm.

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 Member (J).
Judgment signed on : 01/11/2023.
and pronounced on : 02/11/2023.