

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.1045 OF 2019

DISTRICT : MUMBAI

Shri Dhanji A. PArmar)
Age : 54 years, Occ : Sr. Clerk)
R/o. Shri Saibaba Nagar C. H. S., Room No.98,)
G. N. Boricha Marg, Shani Nagar, Satrasta,)
Mumbai 400 011.)...**Applicant**

Versus

The Deputy Director of Vocational)
Education and Training, The Regional)
Office at 49, Kherwadi, Aliyaware Jung)
Marg, Bandra (E), Mumbai 400 051.)...**Respondents**

Shri Sameer Adhangale holding for Shri S. K. Zende, Advocate for Applicant.

Shri S. D. Dole, Presenting Officer for Respondents.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 01.02.2020.

JUDGMENT

1. The challenge is to the suspension order dated 05.05.2014 whereby the Applicant was kept under suspension in view of registration of crime for the offences under Section 409, 420 of I.P.C. Since then Applicant is under suspension without taking any steps to review the suspension or to reinstate him in service. Ultimately, the Applicant has approached this Tribunal in view of prolong suspension of more than five years.

2. Learned P.O. sought time to file the reply. As the Applicant is subjected to prolong suspension without taking any steps for review, there is no need to await for reply and O.A. can be disposed of by suitable directions.

3. In so far as the legal position is concerned, the issue is no more *res-integra* in view of the judgment of **(2015) 7 SCC 291 (Ajay Kumar Choudhary Vs. Union of India & Anr.)** wherein the Hon'ble Supreme held that suspension should not exceed three months and competent authority is required to pass reasoned order for its continuation or revocation if charge sheet is not filed within 90 days from the date of suspension. Besides, the Government has also issued various G.Rs from time to time, whereby instructions are given to take periodical view of the suspension in this behalf.

4. As per G.R. dated 14.10.2011, 31.01.2015 and 09.07.2019 detailed instructions were issued to take review of the suspension of the Government servant so that they are not subjected to prolong suspension. As per, G.R. dated 14.10.2011, the Review Committee was under obligation to take periodical review after every three months. Clause 4 (a) of G.R. states that where the government servant is suspended in view of registration of serious crime against him and the Criminal Case is not decided within two years from the date of filing of charge sheet then the Review Committee may recommend for reinstatement of the government servant on non-executive post. Whereas, as per Clause 4(b) of G.R., where the period of two years from filing of charge sheet is not over or where no charge sheet is filed, in that event also, the Review Committee can make recommendation for revocation of suspension and to reinstate the government servant having regard to the guidelines mentioned in G.R.

5. Recently, the Government of Maharashtra had issued G.R. dated 09.07.2019 thereby acknowledging the mandate laid down by the Hon'ble Supreme Court in **Ajay Kumar Choudhary's** case that suspension beyond 90 days would be impermissible and instructions are issued to all departments to ensure initiation of D.E. within 90 days.

6. In the present case, till date no D.E. is initiated. The Criminal Case is pending before the court. As such, the Applicant cannot be subjected to prolong suspension in view of the law laid down by the Hon'ble Supreme Court as well as instructions in G.R. dated 14.10.2011. Indeed, the Respondents ought to have taken review of the suspension much earlier.

7. In view of above, the present O.A. is disposed of with following order.

ORDER

- (A) The Original Application is allowed partly.
- (B) The Respondent is directed to place the matter before Review Committee/ Competent Authority to take the review of the suspension of the Applicant in terms of G.R. dated 14.10.2011 and to take the decision within one months from today.
- (C) The decision, as the case may be, shall be communicated to the Applicant within two weeks thereafter.
- (D) If the Applicant felt aggrieved by the decision, he may avail legal remedy, in accordance to law.
- (E) No order as to costs.

Sd/-
(A.P. KURHEKAR)
Member-J