

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 580/2023(S.B.)

Sambhaji Baburao Motibone,
Aged about 34 years, Occupation: Service,
R/o.Gandhi Nagar, Karanja Lad,
Tq. Karanja Lad, Distt. Washim.

Applicant.

Versus

1. The State of Maharashtra,
Through its Secretary,
Revenue and forest Department,
Mantralaya, Mumbai - 32.
2. Director of Land Record,
Maharashtra State, Pune.
New Administrative Building, Pune.
3. Deputy Director of Land Record,
Amravati Division, Amravati.

Respondents

Shri A.P.Tathod, Ld. Counsel for the applicant.
Shri A.P.Potnis, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 30th October, 2023.

JUDGMENT

Heard Shri A.P.Tathod, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the Respondents.

2. Case of the applicants in short is as under-

The applicant was appointed on the post of Deputy Superintendent of Land Record on 13.07.2015. The applicant was transferred from the post of Deputy Superintendent of Land Record at Karanja Lad, District Washim on 28.05.2018. The applicant is suspended by the order dated 05.05.2023 on the ground that the applicant had taken wrong mutation entry. The applicant was arrested for the offence punishable u/ss 420, 465, 467, 471, 472 r/w Section 34 of the I.P.C.. From 05.05.2023 the applicant is under suspension. Chargesheet is not served to the respondent for departmental enquiry. Therefore, suspension is liable to be quashed and set aside. Hence, the applicant filed this O.A. for the following relief.

i) Quash and set aside the order of suspension dated 05.05.2023 (Annexure-A2) issued by respondent no.2 by which the applicant is placed under suspension on the post of Superintendent of Land Record, Karanja Lad, District-Washim.

3. The respondents have filed reply and submitted that the applicant had taken wrongful mutation entry based on fake documents and, therefore, offence was registered against the applicant. Therefore, the applicant is suspended. The O.A. is liable to be dismissed.

4. During the course of submission, the learned counsel for the applicant has pointed out the Judgment in the case of **Ajay Kumar Choudhary Vs. Union of India, (2015) 7 SCC 291.** The Hon'ble Supreme Court has held as under-

D. 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. (Para 14).

5. After the Judgment of **Ajay Kumar Choudhary Vs. Union of India, (2015) 7 SCC 291**, the Government of Maharashtra also issued G.R. dated 09.07.2019. As per this G.R., the enquiry is to be completed expeditiously. Whenever, the employee is put under suspension then the chargesheet is to be served within three months.

If the suspension is to be continued then specific reasons are to be mentioned for extension of suspension.

6. In the present matter, the applicant is under suspension from 05.05.2023. After the 90 days, the applicant is entitled to get the benefit on G.R. dated 09.07.2019 and as per Judgment of the Hon'ble Supreme Court in the case of *Ajay Kumar Choudhary Vs. Union of India, (2015) 7 SCC 291*. There is no dispute that the chargesheet is not served to the applicant. As per Judgment of the Hon'ble Supreme Court, if the chargesheet is not served within 90 days from the date of the order of suspension, then the suspension is to be revoked. Hence, the following order is passed.

ORDER

1. The O.A. is allowed.
2. The suspension order dated 05.05.2023 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 – 30/10/2023
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 Vice Chairman.
Judgment signed on : 30/10/2023.
Uploaded on : 01/11/2023.