

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 609/2023(S.B.)**

Gopal Sawairam Chavhan,
Aged about 56 years,
R/o Wathurkar Layout,
Adarsh Colony, Dist. Akola.

Applicant.

Versus

1. State of Maharashtra,
through its Department of Water Resources,
Mantralaya, Mumbai.
2. Superintending Engineer,
Akola Irrigation Circle, Akola.
3. Assistant Superintending Engineer,
Akola Irrigation Circle, Akola.

Respondents

Shri N.R.Saboo, Ld. counsel for the applicant.
Shri V.A.Kulkarni, Ld. P.O. for the respondents 1 & 3.
Shri A.Deshpande, Ld. counsel for the respondent no.2.

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

Dated: - 4th August, 2023.

JUDGMENT

Heard Shri N.R.Saboo, learned counsel for the applicant, Shri V.A.Kulkarni, learned P.O. for the Respondents 1 & 3 and Shri A.Deshpande, learned counsel for the respondent no.2. The matter is heard and decided finally with the consent of learned counsel for both the sides.

2. Case of the applicant in short is as under.

As per the submission of learned counsel for the applicant no any charge sheet is served to the applicant till date. The applicant was suspended as per order dated 06.12.2022. Learned counsel for the applicant has pointed out the Judgment of the Hon'ble Supreme Court in the case of *Ajay Kumar Choudhary Vs. Union of India through its Secretary and Another (2015) 7 SCC, 291* and also the Government G.R. dated 09.07.2019. As per the Judgment of the Hon'ble Supreme Court in the case of *Ajay Kumar Choudhary Vs. Union of India through its Secretary and Another (supra)*, if the charge sheet is not served within 90 days, then suspension is to be revoked. In view of the Judgment of the Hon'ble Supreme Court, the Government of Maharashtra has issued a G.R. dated 09.07.2019. The Guidelines are given in the G.R. as under-

शासन निर्णय :-

१. या अनुषंगाने शासकीय कर्मचाऱ्यांच्या निलंबनाचा आढावा घेण्यासंदर्भात पुढीलप्रमाणे सूचना देण्यात येत आहेत.

1) 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 घेऊन निलंबन पुढे चालू ठेवावयाचे असल्यास त्याबाबतचा निर्णय सुस्पष्ट आदेशासह (कारण मिमांसेसह) सक्षम प्राधिकाऱ्यांच्या स्तरावर घेण्यात यावा.

ii) निलंबित शासकीय सेवकांच्या ज्या प्रकरणी ३ महिन्यांच्या कालावधीत विभागीय चौकशी सुरु करुन 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 करुन 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 करुन दोषारोप पत्र बजावणेबाबत आवश्यक तो अभिलेख लाचलुचपत प्रतिबंधक विभागाने संबंधीत प्रशासकीय विभागास उपलब्ध करुन देणे आवश्यक राहिल.

3. The Hon'ble Supreme Court in the case of *Ajay Kumar Choudhary Vs. Union of India through its Secretary and Another (Supra)*, has held that if the suspension is continued more than 90 days and charge sheet is not served to the delinquent employees, then suspension is to be revoked. In view of the Judgment of the Hon'ble Supreme Court and the Government G.R. dated 9.07.2019, the following order is passed.

ORDER

1. The O.A. is allowed.
2. The suspension is revoked.

3. The respondents are directed to reinstate the applicant within a period of one month from the date of receipt of this order.
4. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated – 04/08/2023

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 : 04/08/2023.
Uploaded on : 09/08/2023.