

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 905/2023(S.B.)

Yuvraj S/o Baliram Jadhav,
Aged 40 years, Occ. Service
(At present under suspension),
R/o Near Ganoba Mangal Karyalaya,
Mahur Road, Pusad, Dist. Yavatmal.

Applicant.

Versus

1. The State of Maharashtra,
Through its Additional Chief Secretary,
Home Department,
Mantralaya, Mumbai-32.

2. The Superintendent of Police,
Having its Office at LIC Chowk,
Yavatmal, Tq. & Dist. Yavatmal - 445001.

Respondents

Shri S.P.Palshikar, Ld. Counsel for the applicant.
Shri A.M.Ghogre, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 26th September, 2023.

JUDGMENT

Heard Shri S.P.Palshikar, learned counsel for the applicant and Shri A.M.Ghogre, learned P.O. for the Respondents. The O.A. is heard and decided finally.

2. The case of the applicant in short is as under.

The applicant was appointed as Police Constable on 06.10.2007. He was promoted as Police Naik in the year 2013 and was posted at Police Station Ghatanji, District Yavatmal. The applicant was transferred to Vasant Nagar Police Station, Pusad, District Yavatmal, in the year 2021. On 26.01.2023 crime was registered against the applicant under the various offences under Indian Penal Code. The applicant was arrested on 28.01.2023 for the offence punishable under Sections 120 and 324 of I.P.C.. The respondents have suspended the applicant on 29.01.2023. The respondents have not served charge sheet to the applicant within a period of 90 days. Therefore, the applicant approached to this Tribunal to quash and set aside/revoke the suspension order dated 29.01.2023.

3. Reply is not filed. The learned P.O. has fairly submitted that charge sheet is not served within 90 days. The Charge sheet is now served on 09.08.2023. The suspension order is dated 29.01.2023.

4. The learned counsel for the applicant has pointed out Judgment of the Hon'ble Supreme Court in the case of *Ajay Kumar*

Choudhary v. Union of India, (2015) 7 SCC 291 and the G.R. dated 09.07.2019.

5. After the Judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291**, Government of Maharashtra has issued guidelines to all respective head of the departments to serve the charge sheet within 90 days. The material part of G.R. dated 09.07.2019 is reproduced below.

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 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 संबंधीत प्रशासकीय विभागास उपलब्ध करून देणे आवश्यक राहिल.

या आदेशातील तरतुदीमुळे या विषयावरील संदर्भ १ व २ येथील आदेशातील तरतुदी या आदेशाच्या मर्यादेत सुधारण्यात आल्या आहेत असे समजण्यात यावे.

३. सदर शासन निर्णय महाराष्ट्र शासनाच्या www.maharashtra.gov.in या वेबसाईटवर उपलब्ध करण्यात आला असून त्याचा संगणक संकेतांक २०१९०७०९१५२०४०५२०७ असा आहे. हा आदेश डिजीटल स्वाक्षरीने साक्षांकित करून काढण्यात येत आहे.

6. In view of the Judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** if the charge sheet is not served within 90 days then suspension is to be revoked. The G.R. dated 09.07.2019 also shows that guidelines are given to serve the charge sheet within 90 days. Respondents have not served the charge sheet within 90 days. Therefore, following order is passed.

ORDER

1) The O.A. is allowed.

2) The suspension order dated 29.01.2023 is hereby
revoked.

3) 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 - 26/09/2023
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 : 26/09/2023.
Uploaded on : 27/09/2023.