

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 1218 OF 2024  
(Subject:- Suspension)**

**DISTRICT:- AHMEDNAGAR**

**Miss. Rubiya Mohammad Hanif Shaikh** )  
Age:- 35 years, Occu:- Service as Assistant )  
Engineer Grade-I, )  
R/o. Plot No. 365, Gadekar Chowk, )  
Nirmal Nagar, Dist. Ahmednagar 414 003. )...**APPLICANT**

**V E R S U S**

- 1. The State of Maharashtra,** )  
Through: Secretary, )  
The State of Maharashtra, )  
Water Resources Department, )  
Madam Kama Marg, )  
Mantralaya, Mumbai-32. )
- 2. The Deputy Secretary,** )  
The State of Maharashtra, )  
Water Resources Department, )  
Madam Kama Marg, )  
Mantralaya, Mumbai-32. )
- 3. The Superintending Engineer &  
Directorate,** )  
Directorate of Irrigation Research and )  
Development, Pune. )
- 4. The Executive Engineer,** )  
Irrigation Research Division, )  
MERI Camp, Nashik. )...**RESPONDENTS**

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**APPEARANCE** : Smt. Suchita Dhongde, learned counsel for  
the applicant.  
: Shri D.M. Hange, learned Presenting  
Officer for the respondent authorities.  
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**CORAM** : **Shri A.N. Karmarkar, Member (J)**  
**RESERVED ON** : **04.02.2025.**  
**PRONOUNCED ON** : **14.02.2025.**  
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### **ORDER**

By filing this Original Application the applicant has prayed for quashing and setting aside the impugned order of suspension dated 02.05.2024. The applicant is also seeking direction to reinstate her and to pay subsistence allowance.

2. The applicant was appointed as Assistant Engineer Grade – I on 01.01.2016. Applicant joined her service under the office of Executive Engineer, Nashik at Ahmednagar on 01.11.2021. While she was posted at Ahmednagar, the respondent No.4 issued impugned order of suspension dated 02.05.2024 in view of registration of crime against this applicant and one Smt. Rajni Patil for the offence punishable under Section 7, 7(A), 12 of Prevention of Corruption Act. She was released on bail on 21.04.2024. Memorandum of charge-sheet has not been issued till filing of this Original Application nor the Departmental Enquiry is initiated against her. As per G.R. dated 09.07.2019 the memorandum of charge-sheet is not served within 90 days from the date of suspension. So there is no alternative but to revoke the suspension.

The applicant has filed this Original Application on the ground that the impugned order is arbitrary and illegal. No specific rule is mentioned under which the impugned order is passed.

3. The respondents have filed the affidavit in reply. According to them the applicant was arrested while accepting the bribe from the subordinate employee Shri Ajay Lakhapati, Junior Engineer and F.I.R. was lodged against the applicant and Smt. Rajani Patil. Both were arrested on 19.04.2024. According to them necessary documents were not provided by the Anti-Corruption Bureau early as per G.R. dated 09.07.2019. Anti-Corruption Bureau was informed to provide copies of Panchanama (पंचनामा) and other relevant documents. The Anti-Corruption Bureau sent documents on 23.10.2024. Then the proposal for initiation of Departmental Enquiry was sent. Due to existence of code of conduct pertaining to election early steps were not taken. According to the respondents the proposal for taking review of suspension of the applicant and Smt. Rajni Patil was submitted to Suspension Review Committee on 28.10.2024. Considering the gravity of allegations the said committee has recommended to continue the suspension period. It is also contended that the proposal for sanctioning of 75% subsistence allowance has been

submitted to the Competent Authority and on getting approval they will make payment.

4. I have heard Smt. Suchita Dhongde, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities.

5. Learned counsel for the applicant has submitted that the respondents have not served memorandum of charges on the applicant within 90 days from the date of suspension. Secondly, the matter was not submitted to the Review Committee to take decision in respect of continuation of suspension period. Therefore, in view of the decision of the Hon'ble Apex Court in a case of **Ajaykumar Choudhari Vs. Union of India & Ors. (Civil Appeal No. 1912 of 2015), [(205) 7 SCC 291]** decided on 16.02.2015, suspension of the applicant needs to be revoked. She has also relied upon the decision of Hon'ble High Court of Bombay, Bench at Nagpur in a case of **Chandrashekhar S/o. Raibhan Gavai Vs. The Chief Executive Officer, Zilla Parishad, Akola (Writ Petition No. 7506/2018)**, the judgment of Nagpur Bench of this Tribunal in a case of **Ramesh Hiralal Gupta Vs. The State of Maharashtra & Anr. (Original Application No. 853/2021)** and in a case of **Kavijeet S/o Suresh Patil Vs. State of Maharashtra & Ors. (Original Application No. 1177/2022)** and judgment of Aurangabad Bench of

this Tribunal in a case of **Ramesh Raghunathrao Kagne Vs. State of Maharashtra & Ors. (Original Application No. 432/2022).**

6. On the other hand learned Presenting Officer has submitted that the copy of memorandum of charges was served on the applicant on 26.12.2024. He has invited my attention to the G.R. dated 09.07.2019 which says that Anti-Corruption Bureau need to send record to the concerned department for the purpose of Departmental Enquiry. According to him, the respondents received the documents regarding registration of crime against the applicant late. So there was delay in serving memorandum of charges on the applicant.

7. It is undisputed fact that the applicant was serving as Assistant Engineer in the office of Irrigation Research and Drainage Sub-Division, Ahmednagar. It is also not disputed that the crime was registered against the applicant and one Smt. Rajni Patil for the offence punishable under Section 7, 7(A), 12 of Prevention of Corruption Act with the allegations of demand and acceptance of bribe. The suspension order dated 02.05.2024 (page No. 16) shows that it is issued as per the provisions of Rule 4(1)(C) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. Rule 4 (2) says that a Government servant shall be deemed to have been placed under suspension with effect from the date of

his detention if he is detained in police or judicial custody for a period exceeding forty-eight hours. It is not disputed that the applicant was arrested on 19.04.2024 and released on bail on 21.04.2024. The applicant has come with the case that in view of judgment in a case of **Ajaykumar Choudhari Vs. Union of India** (cited supra), the memorandum of charge sheet in the Departmental Enquiry is not served within the period of 90 days from the date of suspension, nor there is review regarding continuation of suspension order.

8. Learned Presenting Officer has submitted during the course of arguments the papers to show that memorandum of charges are served on the applicant. It appears that the memorandum of charges was served on 26.12.2024. So it is clear that the memorandum of charge-sheet is not served within 90 days even from the date of actual order of suspension on 02.05.2024. The Hon'ble Apex Court in a case **Ajaykumar Choudhari Vs. Union of India & Ors.** (cited supra) in paragraph No. 14 has held as under:-

*“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/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.”*

9. Due to failure on the part of the respondents to serve the charge sheet within 90 days from the date of suspension order dated 02.05.2024, it needs to be revoked. In respect of said aspect the applicant has referred the judgment of Hon'ble High Court of Bombay, Bench at Nagpur and judgments of The Maharashtra Administrative Tribunal, Mumbai, Benches at Aurangabad and Nagpur, which are as under:-

- (i) Chandrashekhar S/o. Raibhan Gavai Vs. The Chief Executive Officer, Zilla Parishad, Akola (Writ Petition No. 7506/2018),**
- (ii) Ramesh Hiralal Gupta Vs. The State of Maharashtra & Anr. (Original Application No. 853/2021)**
- (iii) Kavijeet S/o Suresh Patil Vs. State of Maharashtra & Ors. (Original Application No. 1177/2022)**
- (iv) Ramesh Raghunathrao Kagne Vs. State of Maharashtra & Ors. (O.A.No. 432/2022).**

10. The G.R. dated 09.07.2019 which is on the basis of judgment in a case of **Ajaykumar Choudhari Vs. Union of India** & Ors. (cited supra) is as under:-

**“शासन निर्णय:-**

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

i) 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 प्राधिकाऱ्याच्या 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 तरतुदींमुळे या विषयावरील संदर्भ १ व २ येथील आदेशांतील तरतुदी या आदेशाच्या मर्यादित सुधारण्यात आल्या आहेत असे समजण्यात यावे.”

11. In view of judgment relied upon by the applicant and G.R. dated 09.07.2019 referred above, the continuation of suspension order of the applicant cannot be sustained.

12. Learned presenting Officer submits that since there was delay in getting papers from the department of Anti-corruption Bureau, the memorandum of charge sheet could not be served



early. It is responsibility of the Anti-Corruption Bureau to make available the documents early as per the above refereed G.R. Nothing has prevented to the respondents from getting his documents early from the Anti-Corruption Bureau. The applicant cannot be said to be at fault. So there is no substance in the submissions of learned P.O.

13. In view of above discussions, the Original Application deserves to be allowed. Hence, the following order:-

### **ORDER**

The Original Application is hereby partly allowed in the following terms:-

- (A) Respondents are directed to revoke the order of suspension of the applicant within three weeks from the date of this order.
- (B) Respondents shall issue consequential order within a period of three weeks from the date of receipt of this order.
- (C) In the circumstances, there shall be no order as to costs.

**MEMBER (J)**