

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**ORIGINAL APPLICATION NO.1203 OF 2024
with
ORIGINAL APPLICATION NO.1204 OF 2024
With
ORIGINAL APPLICATION NO.1205 OF 2024
With
ORIGINAL APPLICATION NO.1206 OF 2024**

DISTRICT : PUNE

SUB : Suspension

ORIGINAL APPLICATION NO.1203 OF 2024

Sarita Dattatraya Lahare,)	
Aged about 44 years,)	
Residing at 502 Shree Samarth,)	
Link Road, Chinhead Gaon,)	
Pune-33, District Pune.)Applicant

V/S

1. Superintendent PG, Government)	
Medical College and Sasoon Hospital Pune)	
District Pune 413801.)	
2. Commissioner Education, Research)	
and Aayush State of Maharashtra,)	
Office at Government Dental College)	
and Hospital, St George Hospital)	
premises, Fort Mumbai.)Respondents

ORIGINAL APPLICATION NO.1204 OF 2024

Archana Anthony Alotkar)	
Aged about 41 years,)	
Residing at A/P- Loni Kalbhore, near)	
Loni Railway Station, Samruddhi Palace)	
Building, Flat No.406, 'C' wing,)	
Tal. Haveli, Dist. Pune 412201.)Applicant

V/S

1. Superintendent PG, Government)
 Medical College and Sasoon Hospital Pune)
 District Pune 413801.)
2. Commissioner Education, Research)
 and Aayush State of Maharashtra,)
 Office at Government Dental College)
 and Hospital, St George Hospital)
 premises, Fort Mumbai.).....Respondents

ORIGINAL APPLICATION NO.1205 OF 2024

Nandini Mukund Chandekar,)
 Aged about 45 years,)
 Residing at Sr. No.133 Sai Colony,)
 Waraje Malwadi Near NH 4 Highway, near)
 Mediturtle Pawar Hospital, Saikrupa)
 Hotel Lane, Pune 411058.)....Applicant

V/S

1. Superintendent PG, Government)
 Medical College and Sasoon Hospital Pune)
 District Pune 413801.)
2. Commissioner Education, Research)
 and Aayush State of Maharashtra,)
 Office at Government Dental College)
 and Hospital, St George Hospital)
 premises, Fort Mumbai.).....Respondents

ORIGINAL APPLICATION NO.1206 OF 2024

Manjusha S. Jagtap, Aged about 47 years,)
 Residing at/ Post -Uruli Kanchan, Taluka)
 Haveli, Bhadle Plotting, Tupe Wasti,)
 Pune 411058.)....Applicant

V/S

1. Superintendent PG, Government)
 Medical College and Sasoon Hospital Pune)
 District Pune 413801.)

2. Commissioner Education, Research)
 and Aayush State of Maharashtra,)
 Office at Government Dental College)
 and Hospital, St George Hospital)
 premises, Fort Mumbai.).....Respondents

Shri A. R. Kapadia, learned Advocate for the Applicants.

Shri A. J. Chougule, learned Presenting Officer for the Respondents
 O.A.No.1203/202, 1204/2024).

Shri A. D. Gugale, learned Presenting Officer for the Respondents
 (O.A.No.1205/2024).

Shri D. R. Patil, learned Presenting Officer for the Respondents
 (O.A.No.1206/2024).

CORAM : Hon'ble Shri M. A. Lovekar, Vice-Chairman

Reserved on : 25.03.2025

Pronounced on : 28.03.2025

JUDGEMENT

Heard Shri A. R. Kapadia, learned Advocate for the Applicants, Shri A. J. Chougule, learned Presenting Officer for the Respondents O.A.No.1203/202, 1204/2024), Shri A. D. Gugale, learned Presenting Officer for the Respondents (O.A.No.1205/2024) and Shri D. R. Patil, learned Presenting Officer for the Respondents (O.A.No.1206.2024).

2. By this common judgment these four Original Applications are being decided since the issue involved in them is the same.

3. The Applicants are working as 'Staff Nurse'. They were expecting to get arrears of 6th Pay Commission (TIER-II) as per G.R.s dated 08.10.2021 and 23.02.2022. In their accounts amount in excess of Rs. 3 Lakh was shown to have been credited towards payment of aforesaid arrears. By separate letters dated 20.08.2024, they were asked to remain present in enquiry proceeding as some amounts were directly

credited to their salary accounts which could not be reconciled with the cash book. On 23.08.2024, the Enquiry Committee was constituted. The Committee quantified the total amount of misappropriation at Rs.4,18,62,942/-. On 13.09.2024 Crime No.260/2024 was registered at Bund Gardan, Pune Police Station under Sections 420, 406, 409 read with 34 of IPC. The Chargesheet *inter-alia* stated –

“खालीलप्रमाणे फिर्याद देत आहे.

आमचे कार्यालयाकडून नेमण्यात आलेल्या चौकशी समितीने ससुन रुग्णालय पुणे येथील शासकीय नोंद वहीमध्ये तफावत असलेबाबत प्राथमीक चौकशी समिती व संचालनालय स्तरावरून चौकशी समितीच्या अहवालानुसार सदरील प्रकरणामध्ये पुर्णपणे आर्थिक अपहार झाला आहे व शासनाची शासन आदेश/शासन मान्यता/अधिष्ठाता यांची मान्यता नसताना परस्पर आहरण व सवितरण अधिकारी (डी.डी.ओ) यांचेखात्यातील रक्कम प्रशासकीय अधिकारी यांचे स्वाक्षरीने ससुन रुग्णालयातील १६ शासकीय नोकर व इतर ०८ खातेदारांच्या खात्यात एकुण ४,१८,६२,९४२/- रुपये (चारकोटी अठरा लाख बासष्ट हजार नऊशे बेचाळीस रुपये) इतक्या रक्कमेचे वितरण केलेले आहे. ही अत्यंत गंभीर स्वरूपाची बाब आहे. ”

The amount said to have been misappropriated pertaining to which aforesaid crime was registered included credits to the accounts of the Applicants. By separate orders dated 12.09.2024, the Applicants were placed under suspension under Rule 4(1) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. They made representations, denied their involvement in the misappropriation and prayed for reinstatement. They put forth their stand that they believed the amount credited to their accounts to be of arrears of 6th Pay Commission (TIER-II). Their suspension was not revoked. Hence, these Original Applications praying for quashing and setting aside the impugned orders of suspension. The Applicants have pleaded in alternative that they be directed to be reinstated as per ratio laid down by the Hon'ble Supreme Court in **Ajay Kumar Choudhary V/s Union of India, (2015) 7 SCC 291.**

4. Stand of the Respondent Nos.1 & 2 is that registration of crime was preceded by the preliminary enquiry. Credits made to the accounts of the Applicants were found to be fraudulent and hence they were rightly placed under suspension. Though, the Applicants have not made out a case for grant of principal relief i.e. quashing and setting aside the impugned orders of suspension, they would be entitled to get the benefit of ratio laid down in the case of **Ajay Kumar Choudhary** (supra). In support of this conclusion reliance may be placed on G.R. of G.A.D., Government of Maharashtra dated 09.07.2019 which states :-

“शासन निर्णय :-

निलंबित शासकीय अधिकारी / कर्मचाऱ्यांच्या निलंबनाची कारणे व त्यांचे गांभीर्य यानुसार त्यांच्या प्रकरणांचा आढावा घेण्यासंदर्भात शासनाने वेळोवेळी वर संदर्भामध्ये दर्शविल्यानुसार शासन निर्णय निर्गमित केले आहेत. श्री. अजयकुमार चौधरी विरुद्ध युनियन ऑफ इंडिया (सिव्हिल अपिल क्र. १९१२/२०१५) मध्ये मा. सर्वोच्च न्यायालयाने दि. १६/०२/२०१५ रोजी दिलेल्या निर्णयाच्या परिच्छेद १४ मधील आदेश खालीलप्रमाणे आहेत.

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 the 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.

२. मा. सर्वोच्च न्यायालयाने वरीलप्रमाणे दिलेल्या दि. १६/०२/२०१५ च्या निर्णयाचे अनुषंगाने केंद्र सरकारचा दि. २३ ऑगस्ट, २०१६ रोजीचा कार्यालयीन आदेश सोबत जोडला आहे. मा. सर्वोच्च न्यायालयाचा निर्णय व केंद्र सरकारचा कार्यालयीन आदेश पाहता निलंबित शासकीय कर्मचाऱ्यांना ९० दिवसांच्या मुदतीत दोषारोप पत्र बजावून त्यांच्या निलंबनाच्या आढाव्या संदर्भातील तरतुदी सुधारण्याची बाब शासनाच्या विचाराधीन होती.

शासन निर्णय :-

१. या अनुषंगाने शासकीय कर्मचाऱ्यांच्या 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.”

In these cases, separate orders of suspension are dated 12.09.2024. Neither chargesheet is filed against the Applicants nor are they chargesheeted in the Departmental Enquiry. It is not the case of

the Respondents that suspension of the Applicants was reviewed at any point of time for the purpose of extension/revocation. Considering the facts and law applicable thereto, all the Original Applications are allowed in the following terms. Suspension of the Applicants beyond 90 days is held to be impermissible. The Respondents are directed to reinstate them within seven days from today. The Applicants would be entitled to get monetary reliefs, consequent upon this determination. The same shall be paid to them within two months from today. No order as to costs.

**Sd/-
(M. A. Lovekar)
Vice-Chairman**

Place: Mumbai
Date: 28.03.2025
Dictation taken by: V. S. Mane
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