

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO. 01 of 2019

- 1) Shri Mohan Vasant Ghadage)
Age 46 years, R/at. 1012, opp.Power)
House, Khanbhag, Sangli,)
Dist. Sangli 416416.)...Applicant

Versus

- 1) The Divisional Commissioner (Revenue),)
Pune Division, Council Hall Vidhan Bhavan,)
Bund Garden Rd., Campt, Pune,)
Maharashtra 411001.)

2) The Dean,)
Padmbhushan Vasantdada Patil Civil)
Hospital, At Sangali, Dist. Sangli 416416.)...Respondents

Smt. Prachi Hendre, learned Advocate for the Applicant.

Shri A.J. Chougule, learned Presenting Officer for the Respondents.

CORAM : Shri A.P. Kurhekar, Member-J

DATE : 26.03.2019

JUDGEMENT

1. Heard Smt.Prachi Hendre, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. In the present O.A., the challenge is to the suspension order dated 05.02.2009 whereby the Applicant was kept under suspension in view of registration of offence u/s 420, 463, 464, 466, 568, 471 r/w 34 of IPC. In the Criminal Case, the charge sheet was filed on 25.09.2009 and still sub-judice in the court. No charge sheet in D.E. has been served. He made representations on 06.08.2009, 23.08.2009 and 28.03.2016 for revocation of suspension and

Shri A.J. Chougule

reinstatement in service. However, it was not responded. Ultimately, the Applicant has approached this Tribunal by filing this O.A.

3. This Tribunal having noticed that the Applicant has been kept under suspension for about 10 years and passed various orders from time to time to know why the Applicant is kept under such prolonged suspension and as to why the suspension has not been revoked in terms of G.R. dated 14.10.2011. This Tribunal has also observed that in view of the law laid down by the Hon'ble Supreme Court in **(2015) 7 SCC 291 (Ajay Kumar Choudhary V/s Union of India & Ors)**, the Government servant cannot be kept under suspension beyond 90 days.

4. It is in pursuance of the orders passed by this Tribunal from time to time, the Respondents have decided to revoke the suspension and has tendered a letter dated 08.03.2019 on record stating that the suspension of the Applicant has been revoked w.e.f.08.03.2019 and he is reinstated in service. As such, the Applicant was kept under suspension for 10 years and it is only after passing of various orders by this Tribunal, the suspension has been revoked w.e.f. 08.03.2019.

5. On the above background, the learned Advocate for the Applicant submitted that as the Applicant has been reinstated in service, the O.A. be disposed of but the cost be imposed upon the Respondents.

6. Whereas, the learned P.O. for the Respondents submitted that as the suspension is already revoked, the O.A. be disposed of without imposing of cost.

7. The facts of the present O.A. are quite disturbing as there is blatant violation of law and negligence on the part of the Respondents to take review of suspension in terms of G.R. dated 14.10.2011 is obvious. In terms of the said G.R., the Respondents were under obligation to take periodical review of the suspension which they failed to do. In terms of G.R. dated 14.10.2011, in case of

suspension of the Government servant in pursuance of registration of crime against him, the Review Committee needs to take review after one year from the date of suspension. It further provides that in case of Criminal Case is not decided within two years in that event again the review Committee is under obligation to take the decision about continuation of revocation and the Review Committee is empowered to revoke the suspension and to reinstate the Government servant in service. However, in the present case, the Respondents did not bother to place the matter before the Review Committee, as a result of which the Applicant has been subjected to prolong suspension of 10 years. It is only after filing of this O.A., the Respondents woke up and decided to revoke the suspension.

8. As stated above, in view of the judgment of Hon'ble Supreme Court in ***Ajay Kumar Choudhary's case*** (cited supra), the suspension beyond 90 days is not sustainable in law as per law. The Disciplinary Authority was required to consider the revocation of suspension after expiration of period of 90 days or before 90 days in case the charge sheet is filed against such Government servant. Thus, apart from non-observance of G.R. dated 14.10.2011, there is no observance of the law laid down in ***Ajay Kumar Choudhary's case***. True, during the pendency of the O.A. the suspension has been revoked but it is only after filing of this O.A. and the orders passed by this Tribunal from time to time.

9. In view of above, submission of the learned Advocate for cost of the proceeding is just and reasonable as the Applicant has been deprived of his legitimate right for span of 10 years. The Respondents are, therefore, liable to pay the cost of this O.A. to the Applicant. Hence, the following order.

ORDER

- (a) The O.A. is disposed of in view of revocation of suspension of the Applicant.
- (b) The Respondents do pay the cost of Rs.10,000/- to the Applicant as the cost of litigation within one month from today.
- (c) The Respondents are further directed to fix the responsibility for not taking timely action to take review of the suspension and the cost of Rs.10,000/- be recovered from the person found responsible.

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Sd/-

(A.P. KURHEKAR)
MEMBER (J)