

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 1025/2019(D.B.)**

Anil s/o Murlidhar More,
Aged about 43 years, Occu.- Government Servant,
R/o Civil Lines, Near police Head Quarter,
Washim- 444505.

Applicant.

Versus

1. The Government of Maharashtra,
through its Secretary,
Department of Agriculture,
Animal Husbandry, Dairy Development
and Fisheries, Mantralaya, Mumbai 400032.
2. The Commissioner (Agri.),
Department of Agriculture, Pune-1.
3. The Divisional Agriculture Deputy Director,
Amravati Division, Amravati.
4. The Collector,
c/o Collector Office, Washim- 05.

Respondents.

Shri S.M.Khan, Ld. Counsel for the applicant.
Shri A.P.Potnis, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman &
Hon'ble Shri Nitin Gadre, Member (A).

Dated:- 4th September, 2024.

JUDGMENT

Heard Shri S.M.Khan, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the Respondents.

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

The applicant was appointed on the post of Krushi Sevak on 23.08.2007. He was made permanent w.e.f. 23.08.2007 as Agricultural Assistant. The applicant while in service at Mangrulpeer, District Washim has been suspended by the respondent no.4, the Collector, Washim under Rule 5(3)(2) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 without any authority. The commissioner i.e. respondent no.2 and the Divisional Agriculture Deputy Director, Amravati Division, Amravati are the Appointing Authority as well as Disciplinary Authority. In short, the applicant has stated in the O.A. that he was suspended by the Collector who had no any authority to suspend him. The applicant was kept under suspension for about 26 months. Hence, it is illegal. Therefore, the applicant has challenged the suspension and departmental enquiry report.

3. The O.A. is strongly opposed by the respondents 2 and 3. It is submitted that the applicant has committed misconduct and therefore applicant was kept under suspension. Departmental

enquiry was conducted and the enquiry report was submitted to the Disciplinary Authority. The O.A. is liable to be dismissed.

4. During the course of submission, the learned counsel for the applicant has pointed out Judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary Vs. Union of India, (2015) 7 SCC 291.** He has pointed out the Government G.R. dated 09.07.2019.

5. The Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary Vs. Union of India, (2015) 7 SCC 291** has held that "suspension cannot be more than 90 days if the charge sheet is not given to the delinquent employee within the period of 90 days, then the suspension order is to be revoked". As per the submission of learned counsel for the applicant, the charge sheet was served to the applicant on 23.02.2018. The applicant was suspended on 24.04.2017 and kept under suspension till 05.07.2019. Hence, the suspension continued even after 90 days and therefore suspension of the applicant is not legal and proper. The respondent authority should have revoked the suspension after completion of 90 days. The respondents continued the suspension after 90 days without following the prescribed procedure.

6. The learned counsel for the applicant has submitted that as per interim order granted by this Tribunal further enquiry was stayed.

7. Now it is well settled that the Disciplinary Authority is at liberty to take necessary action in respect of proved the misconduct against the delinquent employee. Therefore, proceeding in respect of departmental enquiry cannot be stayed. In respect of suspension there is no dispute that charge sheet was not served within 90 days.

8. As per the Judgment of the Hon'ble Supreme Court, if the charge sheet is not served within 90 days from the date of suspension order then suspension is to be revoked. The suspension was revoked by the respondents after almost two years. Hence, we pass the following order-

ORDER

1. The O.A. is partly allowed.
2. The suspension should be treated as revoked after completion of 90 days from 24.04.2017. The applicant should be given all the benefits accordingly.
3. The respondents are directed to take the final decision in the departmental enquiry within a period of three months from the date of receipt of this order.
4. No order as to costs.

(Nitin Gadre)
Member(A)

Dated – 04/09/2024.
rsm.

(Justice M.G.Giratkar)
Vice Chairman

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
& Hon'ble Member (A).
Judgment signed on : 04/09/2024.
and pronounced on
