

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.788 of 2019

Shri Raju Ashok Kadam)
Age 37 years, Occ : Circle Officer)
(under suspension), Walwa Circle Office, Tal.)
Walwa, Dist. Sangli.)
R/at : Bhimnagar, Timber Area, Sangli.)...**Applicant**

Versus

1. District Collector, Sangali, O/at Sangali)
2. The Divisional Commissioner, Pune)
Division, Pune, Office at Old Council)
Hall, Pune -1.)
3. The State of Maharashtra, through)
Principal Secretary, Revenue Dept.)
Mantralaya, Mumbai 400 032.)...**Respondent**

Shri A.V. Bandiwadekar, learned Advocate for the Applicant.
Shri A. J. Chougule, learned Presenting Officer for the Respondent.

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

DATE : 12.01.2021

J U D G M E N T

1. The Applicant has challenged the suspension order dated 08.07.2019 whereby he was kept under suspension in contemplation of Departmental Enquiry (D.E.) invoking Rule 4(1)(a) of Maharashtra Civil Services (Disciplinary & Appeal) Rules, 1979. Later during pendency of O.A., he is reinstated on the post of Awal Karkoon, Tahasil office, Walwa instead of reinstating him on the post of Circle Officer, Walwa, and therefore, grievance remains to the extent of reinstatement on the same post.

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2. Initially the Applicant has serving as Circle Officer at Miraj having jurisdiction over village Maishal of Taluka Miraj. In that period, there was illegal excavation of sand and other minerals from Gat No.1131, 1140, 1638, 1639 and 1640 of village Maishal which was noticed by the department as reflected by the report dated 03.04.2019. Thereafter, the Applicant was transferred from Maishal to Walwa by order dated 31.05.2019. While he was working at Walwa as Circle Officer, the Respondent No.1 – Collector, Sangali by order dated 08.07.2019 suspended the Applicant in contemplation of D.E. Thereafter, joint D.E. was initiated against the Applicant, Talathi and Ors by charge sheet dated 11.09.2019 under Rule 8 of Maharashtra Civil Services (D & A) Rules 1979. Later, the Applicant was reinstated by order dated 28.02.2020 but instead of reinstating him on the post of Circle Officer, he was reinstated on the post of Awal Karkoon (equivalent cadre).

3. D.E. is still in progress without further substantial progress which in fact ought to have been completed within a year in view of various Government Resolutions issued by the Government from time to time.

4. As stated above, in view of reinstatement of the Applicant, challenge to the suspension has become infructuous. However, grievance is raised about reposting of the Applicant as Awal Karkoon instead of reposting him as Circle officer i.e. post from which he was suspended.

5. Shri A.V.Bandiwadekar, learned Counsel for the Applicant sought to contend that since alleged incidence of illegal excavation giving rise to D.E. had taken place at Miraj and the Applicant was already transferred from Miraj to Walwa, there was no jurisdiction to keep the Applicant under suspension as the question of threat to fair inquiry did not arise. He further submitted that in any case after reinstatement of the Applicant by Collector at his own, the Applicant ought to have been reinstated on the same post i.e. Circle Officer, Walwa. He, therefore, prayed for necessary directions in this behalf.

6. Per contra, Shri A. J. Chougule, learned Presenting Officer for the Respondents sought to justify the suspension of the Applicant as well as reinstatement of the post of Awal Karkoon contending that the post of Awal Karkoon is equivalent to Circle Officer.
7. Normally a Government servant is suspended where D.E. is contemplated or criminal offence registered against him so that there should be fair inquiry or trial and chances of tempering of the witnesses are taken care of. In this case, the alleged mis-conduct had taken place while the Applicant was working as Circle Officer at Miraj. Thereafter, by order dated 31.05.2019, he was transferred as Circle Officer, Walwa which is 35/40 km away from Miraj. It is nowhere the case of Respondent that there was any threat from the side of the Applicant for fair inquiry. In the routine course, he was suspended in contemplation of D.E. without considering that he was already transferred from the place where alleged incidence has taken place.
8. Be that as it may, since the Applicant is already reinstated in service, the question now remains about reposting at the same place. This is not a case where the alleged mis-conduct had taken place from particular place, and therefore, it was necessary to reinstate him at some other place to take care of chances of tempering of witnesses or obstruction for fair inquiry. When the Collector, Sangali at his own thought it appropriate to reinstate the Applicant there was no reason much less justifiable to post him in the cadre of Awal karkoon, Walwa. No reason whatsoever in this behalf is forthcoming. Indeed as rightly pointed out by the learned Counsel for the Applicant that the same authority i.e. Collector, Sangali by his order dated 23.01.2020 while revocation of suspension of one employee namely Shri Avinash Patil has reinstated him at same place at Mangrul for which there is no counter from the side of Respondents. As such, different treatment is meted out to the Applicant for which no reason is forthcoming. Only because the cadre of Awal Karkoon is equal to Circle Officer that could not be the ground to reinstate on different post particularly when the alleged

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incident had taken place at totally different place from which the Applicant was already transferred. Admittedly, the post of Circle Officer, Walwa is still vacant as fairly submitted by the learned P.O. on taking instructions from the department during the course of hearing.

9. In so far as D.E. is concerned, it is pending without substantial progress is a matter of record. D.E. initiated for minor punishment against the S.D.O. Shri Vikas Kharat and Shri Sharad Patil, Tahasildar for same ground has been closed by the Commissioner, Pune on giving warning to them. Be that as it may, the suitable directions needs to be given to complete the D.E. initiated against the Applicant which has been delayed for long time.

10. The totality of the aforesaid discussion leads me to sum up that the Applicant is entitled for reposting at Circle Office, Walwa and to that extent, Original Application deserves to be allowed. Hence, the following order.

ORDER

- (A) Original Application is allowed partly.
- (B) Respondents are directed to reinstate the Applicant on the post of Circle Officer, Walwa by modifying reinstatement order dated 28.02.2020 within a month from today.
- (C) Respondents are further directed to complete the joint D.E. initiated against the Applicant and others by passing final order therein within three months from today.
- (D) The Applicant is directed to cooperate for expeditious completion of D.E.
- (E) No order as to costs.

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Sd/-

(A.P. KURHEKAR)
MEMBER (J)

Date : 12.01.2021
Place : Mumbai
Dictation taken by : 14.1.2021
Vaishali Santosh Mane
Uploaded on :