

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 100 OF 2023**

**(Subject:- Suspension/Re-instatement)**

**DISTRICT:-OSMANABAD**

**Rajendra Pandurang Sanap,** )  
Age -52 years, Occupation- Assistant )  
Superintendent, )  
R/o. Bhakti Constructions Area, )  
Bhakti Construction Road, Opp. Shyam Nagar), )  
Near Tirupati Kirana Store, Beed, )  
Tq. & Dist. Beed-431122. )  
Mob. 7666686136. ) **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra** )  
Through its Secretary, )  
Public Health Department, )  
G.T. Hospital, B Wing, )  
10<sup>th</sup> Floor, Complex, Building. )  
New Mantralaya, Mumbai – 400001. )
2. **The Deputy Director,** )  
Health Services, Latur Division, )  
at Latur. )
3. **The Medical Superintendent** )  
Rural Hospital Bhoom, )  
Tq. Bhoom Dist. Osmanabad. )
4. **The Medical Superintendent** )  
Sub District Hospital, )  
Tq. Degloor Dist. Nanded. ) **RESPONDENTS**

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**APPEARANCE** : Shri S.S. Kulkarni, learned Counsel  
for the applicant.  
: Shri N.U. Yadav, learned Presenting  
Officer for the respondent authorities.

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**CORAM** : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**  
**DATED** : **16.01.2024.**  
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### **ORAL - ORDER**

Heard Shri S.S. Kulkarni, learned counsel for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondent authorities.

2. By this application the applicant is challenging the legality and validity of impugned suspension order dated 10.12.2021 (Exhibit 'A') issued by the respondent No.2.

3. Brief facts giving rise to the Original Application are as follows:-

(i) The applicant was initially appointed as a Junior Clerk on 08.04.1992 at Rural Hospital Partur Dist. Jalna and eventually he was promoted as Assistant Superintendent. He was lastly posted at Rural Hospital Bhoom District Osmanabad.

(ii) It is the further case of the applicant that on 26.11.2021 while the applicant was working as Assistant Superintendent at Rural Hospital Bhoom, District

Osmanabad the Crime No. 53/2021 came to be registered against the applicant for the offences punishable under Section 406, 420, 34 of IPC r/w. Section 6, 8 of the Maharashtra Universities Act at Cyber Police Station, Pune.

(iii) The applicant was arrested in connection with the said crime and remanded in the police custody. Thus the respondent No.2 vide its order dated 10.12.2021 (Exhibit 'A') was pleased to suspend the applicant in terms of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. Since then the applicant is under suspension. In view of the said suspension order, the applicant was relieved from Rural Hospital Bhoom on 06.06.2022 and was directed to appear and resume his duty at Sub District Hospital at Degloor Dist. Nanded. Accordingly the applicant had joined the said transfer place.

(iv) It is the further case of the applicant that thereafter he was served with the charges on 27.06.2022 and the applicant has also submitted his reply on 01.08.2022. According to the applicant meanwhile he has moved applications/representations before the respondent Nos. 3 & 4 stating therein that he has not paid the subsistence

allowance at all and requested to disburse the same. Hence, this Original Application.

4. The respondents Nos. 1 to 4 have filed their affidavit in reply and on the basis of said reply, learned Presenting Officer for the respondents submits that on 26.11.2021 a Crime No. 53/2021 came to be registered against the applicant with Cyber Police Station, Pune for the offences punishable under Section 406, 420, 34 of IPC r/w Section 6,8 of the Maharashtra University Act.

5. Learned P.O. submits that the applicant was arrested in connection with the said crime and detained in police custody. The charges levelled against the applicant are very serious. Thus the respondent No. 2 vide order dated 10.12.2021 was pleased to suspended the applicant in view of Maharashtra Civil Services (Discipline and Appeal) Rules, 1979. Learned P.O. submits that applicant's Head Quarter was kept at Bhoom during the period of suspension, but he did not stay at Bhoom. Learned P.O. submits the applicant is required to submit Certificate that he did not accept any private employment or engaged himself in trade or business during the period of suspension for grant of subsistence

allowance as per Rule 69 (4) of Maharashtra Civil Services (Joining Time, Foreign Service and Payments during suspension, Dismissal and Removal) Rules, 1981. However, the applicant did not furnish the certificate despite the oral instruction given by the Higher Officer, and therefore, subsistence allowance was not paid.

6. Learned P.O. submits that charges levelled against the applicant are very serious. Therefore, the applicant was served with the charge sheet dated 27.06.2022 under Rule 8/12 of Maharashtra Civil Service (Discipline and Appeal) Rules, 1979. Learned P.O. submits that there is no illegality in the suspension order 10.12.2021 issued by respondent No.2. There is no merit and substance in the present Original Application and the same deserves to be dismissed.

7. Learned counsel for the applicant placed his reliance in case **Ajay Kumar Chaudhary Vs. Union of India 2015 (2)** **SCALE 432**. In the said case the Hon'ble Supreme Court had held-

**“ 14 We, therefore, direct that the currency of a suspension Order should not extended beyond three months if within this period the Memorandum of**

**Charges/Charge-sheet is not served on the delinquent officer /employee, if the Memorandum of Charges / Charge-sheet is served, a reasoned order must be passed for the extension of the suspension.”**

8. In G.R. dated 09.07.2019 it is laid down-

“निलंबित शासकीय सेवकांच्या ज्या प्रकरणी ३ महिन्यांच्या कालावधीत विभागीय चौकशी सुरू 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 सुरू करून दोषारोप पत्र बजावण्याची कार्यवाही निलंबनापासून ९० दिवसांचे आत काटेकोरपणे केली जाईल याची दक्षता / खबरदारी घेण्यात यावी.”

9. In judgment dated 17.07.2019 in W.P.No. 7506/2018

the Hon'ble Bombay High Court has observed-

**“2. The Government has recently issued a Resolution dated 09.07.2019 giving detailed guidelines and directions for dealing with cases of those employees who are placed under suspension and against whom the charge-sheet has been issued. In the present case, charge-sheet has already been issued and 3 months period has been over long back and therefore, the facts of this case are squarely covered by the Government**

**Resolution dated 09.07.2019, calling for necessary intervention by this court.”**

10. The legal position discussed above shows that the impugned order of suspension cannot be sustained since the applicant was served with the charge sheet after lapse of 90 days from the date on which he was placed under suspension. Hence, the following order :-

**ORDER**

- (A) The Original Application is allowed.
- (B) The impugned order dated 10.12.2021 (Exhibit. 'A') shall stand revoked.
- (C) The respondents are directed to reinstate the applicant within 30 days from today.
- (D) No order as to costs.

**MEMBER (J)**

**Place:-Aurangabad**

**Date : 16.01.2024**

SAS O.A. 100/2023 (S.B.) VKJ suspension.