

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 461/2021

Ankush Pralhad Rathod,
Age 30 yrs., Occ. Service,
R/o. Mandvi, Tq. Kinvat,
Dist. Nanded.

Applicant.

Versus

- 1) The State of Maharashtra,
Through the Secretary,
Social Welfare Department,
Mantralaya, Mumbai.
- 2) Commissioner, Social Welfare
Department, 3 Church Path,
Commissionerate of Social Welfare
Maharashtra State, Pune.
- 3) Regional Deputy Commissioner,
Social Welfare Department,
Nagpur Division, Civil Lines, Nagpur,
Tq. & Dist. Nagpur.
- 4) Assistant Commissioner,
Social Welfare Department, Gondia,
Dr. Babasaheb Ambedkar Samajik
Nyay Bhawan Behind Collector Office,
Patanga Maidan, Gondia,
Tq. & Dist. Gondia.

Respondents

Shri P.S.Patil, Th, Ld. counsel for the applicant.
Shri M.I.Khan, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J).
Dated: - 12th April 2022.

JUDGMENT

Judgment is reserved on 04th April, 2022.

Judgment is pronounced on 12th April, 2022.

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

2. Case of the applicant is as follows :-

The applicant was working as Hostel Superintendent at Arjuni Morgaon, Dist. Gondia. On complaint of one Yogesh jadhav Crime No.27/2016 was registered against him and 14 others at Mandvi, P.S., Tq. Kinwat Dist.Nanded.

The applicant was arrested. By the impugned order dated 27.03.2018 (Annexure A-2) respondent no.2 placed him under suspension. Since no charge sheet of departmental enquiry was served on him within 90 days from suspension, he made representations dated 20.11.2019, 19.5.2020, 1.07.2020, 28.07.2020, 27.01.2021, 05.03.2021 & 09.03.2021 (collectively marked Annexure A-4) for revocation of his suspension. Respondent no.4 forwarded the proposal to respondent no.2. As many as six co-accused in Crime No.27/2016 who were placed

under suspension have been reinstated by orders which are collectively marked Annexure A-5. Under these circumstances suspension order of the applicant is required to be revoked. Hence, this application.

3. Reply of respondents 2 to 4 is at p.p.42 to 48. To this reply proposal of Review Committee is attached. It is dated 22.12.2021. In the opinion of the Committee it would not be proper to reinstate the applicant considering serious nature of allegations levelled against him.

4. The applicant has relied on G.R. dated 9.07.2019 issued by G.A.D., Government of Maharashtra (Annexure A-3). The G.R. states-

शासन निर्णय :

निलंबित शासकीय अधिकारी / कर्मचा-यांच्या 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 (सिडिल 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 कर्मचा-यांना ९० दिवसाच्या मुदतीत

दोषारोप पत्र बजावून त्यांच्या निलंबनाचा आढाव्या संदर्भातील तरतुदी सुधारण्याची बाब शासनाच्या विचाराधीन होती.

शासन निर्णय :-

१. या अनुषंगाने शासकीय कर्मचा-यांच्या 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 प्राधिका-यांच्या 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 संबंधित प्रशासकीय विभागास उपलब्ध करून देणे आवश्यक राहिल.

5. Aforequoted G.R. dated 9.07.2019 would show that suspension order of the applicant is required to be revoked.

Admittedly, no charge sheet of departmental enquiry has been served on the applicant. Hence, the order.

ORDER

- (i) The O.A. is allowed.
- (ii) The impugned order of suspension of the applicant (Annexure A-2) is quashed and set aside.
- (iii) The respondent shall issue consequential order **within 30 days** from today.
- (iv) No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 12/04/2022

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 Member (J) .
Judgment signed on : 12/04/2022.
and pronounced on
Uploaded on : 12/04/2022.**