

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO.563/2024(S.B.)**

Akash Avinash Doifode,
aged 34 years, Occ. Chief Officer,
Municipal Council, Jalgaon Jamod,
District Buldhana.

Applicant.

Versus

1) State of Maharashtra,
through its Chief Secretary,
Urban Development [2] Department,
Mantralaya, Mumbai 400 032.

2) The Collector, Buldhana,
Tq. District Buldhana.

Respondents

Shri R.S.Parsodkar, Ld. Counsel for the applicant.
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J).

Dated:- 08th August, 2024.

JUDGMENT

Judgment is reserved on 05th August, 2024.

Judgment is pronounced on 08th August, 2024.

Heard Shri R.S.Parsodkar, learned counsel for the applicant and Shri V.A.Kulkarni, learned P.O. for the respondents.

2. On 14.12.2023 the applicant was working as Chief Officer, Class-II, Municipal Council, Jalgaon Jamod, District Buldhana. A.C.B. laid a trap, he was arrested (in Crime No. 715/2023), produced before Special Court on 15.12.2023 and released on bail on 16.12.2023. By order dated 08.04.2024 (Annexure A-1) he was placed under suspension w.e.f. 14.12.2023. The applicant has claimed relief of revocation of order of suspension only, on the ground that chargesheet has not been so far filed against him though the statutory period of 90 days is over. Hence, this O.A..

3. On 04.07.2004 order was passed as follows-

2. *As per the submission of learned counsel for the applicant, the applicant is suspended as per order dated 08.04.2024. As per his submission, till date charge sheet is not served to the applicant. The learned counsel for the applicant submits that as per Judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291**, the suspension order is to be revoked.*

3. *The learned C.P.O. seeks time to get instruction as to whether charge sheet is served or not to the applicant.*

Learned P.O. made a statement that so far chargesheet is not filed in the Special Court/ served on the applicant.

4. The applicant has relied on **Ajay Kumar Choudhary Vs. Union of India and Another (2015) 7 SCC 291**. Based on this ruling G.R. dated 09.07.2019 is issued by G.A.D., Government of Maharashtra which reads as under –

शासन निर्णय :-

निलंबित शासकीय अधिकारी / कर्मचाऱ्यांच्या 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 (सिव्हिल 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 कर्मचाऱ्यांना ९० दिवसांच्या मुदतीत दोषारोप पत्र बजावून त्यांच्या निलंबनाच्या आढाव्या संदर्भातील तरतुदी सुधारण्याची बाब शासनाच्या विचाराधीन होती.

शासन निर्णय :-

१. या अनुषंगाने शासकीय कर्मचाऱ्यांच्या 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 प्राधिकाऱ्याच्या 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 संबंधीत प्रशासकीय विभागास उपलब्ध करून देणे आवश्यक राहिल.

5. It was submitted on behalf of the applicant that though the period of 90 days has expired since he was placed under suspension, he has not been served with a chargesheet. The respondent department has not disputed this. This being the legal and factual position

continuation of order of suspension passed against the applicant cannot be allowed. Hence, the order.

ORDER

The O.A. is allowed in the following terms-

The respondents are directed to revoke order of suspension of the applicant and reinstate him within 30 days from today. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 08/08/2024
rsm.

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	:	08/08/2024.
and pronounced on		
Uploaded on	:	08/08/2024.