

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 257/2024 (S.B.)**

Krunal S/o Ramesh Moresiya,
Aged about 28 years, Occ: Service,
R/o Jaypraksh Ward, Near Kamgar Kalyan Centre,
Ramtek, Dist. Nagpur.

Applicant.

Versus

1. State of Maharashtra,
through its Secretary,
Urban Development Department,
Mantralaya, Mumbai.
2. Director,
Office of Town Planning & Valuation,
Maharashtra State, Pune-411001.

Respondents.

Mrs.K.N.Saboo, Ld. Counsel for the applicant.
Smt.A.Warjekar, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.

Dated: - 28th June, 2024.

JUDGMENT

Heard Mrs.K.N.Saboo, learned counsel for the applicant and
Smt.A.Warjekar, learned P.O. for the Respondents. The O.A. is heard and
decided finally.

2. Case of the applicant in short is as under-

The applicant is / was working as a Planning Assistant in Town Planning Department. The applicant was arrested for the offence punishable under the Prevention of Corruption Act. The respondents have passed order of suspension dated 21.09.2022 and suspended the applicant w.e.f. 15.07.2022. It is submitted that till date no any charge sheet is served to the applicant. Therefore, in view of the G.R. dated 09.07.2019, suspension is liable to be revoked. Applicant has approached to this Tribunal for the following reliefs-

i) To direct the respondent to revoke the order of suspension dated 21.09. 2022 issued by respondent No. 2, Director of Town Planning, Pune.

ii) To allow the O.A. and direct the respondent to resume him on duty on the post of Planning Assistant of Directorate of Town Planning and after 90 days of suspension period to pay regular pay to the applicant.

3. The respondents have not filed reply. The applicant has filed affidavit on 13.06.2024. In the affidavit it is stated that till date the respondents have not served any charge sheet for departmental enquiry.

4. Heard learned counsel for the applicant. As per her submission, in view of the G.R. dated 09.07.2019 and the Judgment of Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary v. Union**

of India, (2015) 7 SCC 291, the suspension order dated 21.09.2022 is liable to be quashed and set aside.

5. The learned P.O. submits that she wants to take some instructions from the respondents.

6. It is pertinent to note that the applicant has filed this O.A. on 13.03.2024 on the very first date the applicant's Counsel insisted to decide the O.A. finally. As per direction of this Tribunal, the applicant has filed affidavit. As per affidavit, till date the respondents have not served any charge sheet.

7. The Hon'ble Supreme Court in the case of Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291 has given guidelines. As per Judgment of the Hon'ble Supreme Court, the charge sheet is to be served within 90 days from the date of the order of suspension. If the charge sheet is not served within 90 days then suspension is to be revoked. The Government of Maharashtra has issued Government Resolution on 09.07.2019. The material part of the Resolution is reproduced below-

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 करुन देणे आवश्यक राहिल.

8. In view of Judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** and G.R. dated 09.07.2019, the impugned suspension order dated 21.09.2022 is liable to be revoked. Hence, the following order -

ORDER

1. The O.A. is allowed.
2. The impugned order dated 21.09.2022 is hereby revoked and the respondents are directed to reinstate the applicant within a period of one month from the date of receipt of this order.
3. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated - 28/06/2024.
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 Vice Chairman.
Judgment signed on : 28/06/2024.
