

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

Original Application No.1002 of 2018

Ms. Y.M. Pimple)Applicant

Versus

The State of Maharashtra & Ors.)....Respondent s

Shri A.V. Bandiwadekar, learned Advocate for the Applicant.

Ms. S. Suryawanshi, the learned P.O. for the Respondents.

CORAM : Shri A.P. Kurhekar, Member (J)

DATE : 15.11.2018.

ORDER

1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Ms. S. Suryawanshi, the learned Presenting Officer for the Respondents.
2. In the present O.A. the challenge is to the initiation of departmental enquiry.
3. Perusal of record reveals that the departmental enquiry has been initiated against the Applicant under the Rule 8 of the M.C.S. (Discipline and Appeal) Rules, 1979 and the enquiry officer is also appointed.
4. Learned Advocate for the Applicant Shri A.V. Bandiwadekar prayed for interim relief on the ground that enquiry officer appointed to conduct the enquiry has no jurisdiction to conduct the enquiry in view of the Government circular dated 22.10.2013 whereby the region-wise panel of enquiry officer has been prepared to conduct enquiry on contract basis.
5. In the present case Shri J.R. Bankapure who is at sr.No.92 in the list has been appointed as enquiry office. Jurisdiction of enquiry officer Shri Bankapure is Mumbai, Pune and Nashik. Whereas the present matter is pertains to Palghar district. On this ground learned Advocate for the Applicant prayed for interim relief on the ground that Applicant is not in the jurisdiction of enquiry officer who is appointed to conduct the enquiry.

6. Learned P.O. for the Respondents sought time to file reply and opposed to grant interim relief.
7. In so far as the issue of appointment of enquiry officer Shri Bankpure is concerned, the objection in that behalf can be raised before the disciplinary authority. Hence, liberty is granted to the Applicant that she may raise the objection before the disciplinary authority, who can deal with the same in accordance to law.
8. In view of the above, I am not inclined to grant interim relief as sought to stay the enquiry.
9. Issue notice returnable on 19.12.2018.
10. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
11. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
12. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
13. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file affidavit of compliance and notice.
14. In case notice is not collected within seven days and if service report on affidavit is not filed three days before returnable date, OA shall stand dismissed without reference to Tribunal and papers be consigned to record.
15. S.O. to 19.12.2018.
16. Steno copy and Hamdast is allowed.

Sd/-

(A.P. Kurhekar)
Member (J)

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

Original Application No.1003 of 2018

R.V. Shrigiriwar)Applicant

Versus

The State of Maharashtra & Ors.)....Respondents

Shri A.V. Bandiwadekar, learned Advocate for the Applicant.

Ms. S. P. Manchekar, the learned C.P.O. for the Respondents.

CORAM : Shri A.P. Kurhekar, Member (J)

DATE : 15.11.2018.

ORDER

1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Ms. S. P. Manchekar, the learned Chief Presenting Officer for the Respondents.
2. In the present O.A. the challenge is to the seniority list dated 2.11.2018 wherein the name of the Applicant is shown at sr.no.5.
3. According to the Applicant in pursuance of office order, he gave option for transfer to the Soil and Water Conservation Department within time and fresh seniority list was prepared.
4. In first provisional seniority list the Applicant's name is shown at sr.no.1. However, in final seniority list his name is at sr.no.5.
5. The issue is how the Applicant's name has been placed at sr.no.5 inspite of sr.no.1 as per earlier provisional seniority list.
6. There seems to be dispute about the date of giving option. The Applicant has produced the copy of letter of option dated 12.7.2017 which is within deadline of 15.07.2018. Whereas as per remark column of impugned seniority list, the Applicant has been shown at sr.no.5 in pursuance of paragraph no.8(vi) and (vii) of G.R. of Soil and Water Conservation Department, dated 31.5.2017 which is at page no.29 to 39 of the O.A.
7. As per clause 8(vi) of the G.R., if the option is given after 15.7.2017, the employee will lose the seniority. Thus, late option seems to be reason for changing seniority of the Applicant from sr.no.1 to sr.no.5.

8. The learned C.P.O. for the Respondents opposed the grant of interim relief and states that the matter needs to be examined thoroughly and reply will be filed soon, there is no urgency of interim relief.
9. Learned Advocate for the Applicant prays for interim relief as there is apprehension that he may lose seniority if the promotions are made on the basis of impugned seniority list.
10. There is nothing to show that there is immediate vacancy to fill up the promotional post of Chief Engineer. Therefore, there is no urgency for grant of interim relief right now.
11. Learned C.P.O. for the Respondent made a statement that for two weeks there will be no move for promotion on the basis of impugned seniority list. The statement is accepted and it will take care apprehension of the Applicant.
12. In view of the above, issue notice returnable on 3.12.2018.
13. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
14. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
15. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
16. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file affidavit of compliance and notice.
17. In case notice is not collected within three days and if service report on affidavit is not filed three days before returnable date, OA shall stand dismissed without reference to Tribunal and papers be consigned to record.
18. S.O. to 03.12.2018.
19. Steno copy and Hamdast is allowed.

Sd/-

(A.P. Kurhekar)
Member (J)

sba

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

Original Application No.1000 of 2018

Ms. Lata Gangaram Lonkar & Ors.)Applicants

Versus

The State of Maharashtra & Ors.)....Respondents

Shri A.V. Bandiwadekar, learned Advocate for the Applicants.

Ms. S.P. Manchekar, the learned C.P.O. for the Respondents.

CORAM : Shri A.P. Kurhekar, Member (J)

DATE : 15.11.2018.

ORDER

1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Ms. S.P. Manchekar, the learned Chief Presenting Officer for the Respondents.
2. The present Original Application has been filed for regularization of Applicants' services. The Applicants' claim that they are in service for a period ranging from 5 to 19 years.
3. The Applicants were appointed on contract basis after issuing advertisement to fill up the post. They possess requisite qualification and continued on the post for the last 5 to 19 years with technical break of one day.
4. In spite of representation and continues service as well as availability of post and jobs, their services could not be regularized.
5. Now, the Applicants have apprehension of discontinuation/termination from the service. The Applicants therefore prayed for interim relief directing Respondents not to discontinue their service.
6. Learned C.P.O. for the Respondents opposed the grant of interim relief contending that there is no apprehension of discontinuation.
7. The perusal of initial appointment order reveals that they were appointed on contract basis purely. However, fact remains that they are in service for 5 to 19 years.

They were selected through selection committee in pursuance of advertisement. They possess requisite qualification and their job is continuous.

8. Though there is no overt act on part of Respondent to discontinue the Applicants services, their apprehension needs to be protected so that they should not lose their job abruptly.
9. I am therefore, inclined to direct the Respondents not to discontinue the Applicant without giving 15 days notice. The Applicant will be at liberty to approach this tribunal for interim relief if such adverse decision is taken by the Respondents. This will protect interest of the Applicant.
10. Issue notice returnable on 19.12.2018.
11. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
12. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
13. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
14. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file affidavit of compliance and notice.
15. In case notice is not collected within three days and if service report on affidavit is not filed three days before returnable date, OA shall stand dismissed without reference to Tribunal and papers be consigned to record.
16. S.O. to 19.12.2018.
17. Steno copy and Hamdast is allowed.

Sd/-
(A.P. Kurhekar)
Member (J)

ADMINISTRATIVE TRIBUNAL
MUMBAI

of 20

of 20

FARAD CONTINUATION SHEET NO.

Memoranda of Coram,
Tribunal's orders or
Registrar's orders

Tribunal's orders

Date:- 15.11.2018

M.A.No.594 of 2018 in O.A.No.1000 of 2018

Ms. Lata Gangaram Lonkar & Ors. ... Applicants

Vs.

The State of Maharashtra & Ors ... Respondents

1. Heard Shri A.V. Bandiwadkar, the learned Advocate for the Applicants and Ms. S.P. Manchekar, the learned Chief Presenting Officer for the Respondents.

2. This is an application for leave to sue jointly.

3. Considering the cause of action pursued by the Applicants is common, concurrent and usual, the cases are not required to be decided separately.

4. In this view of the matter, the present Misc. Application is allowed subject to Applicants paying requisite court fees, if not already paid.

5. M.A. is allowed.

15/11/18

A. P. Kurhekar, Member (J)

A.V. Bandiwadkar

for the Applicant

Ms. S. P. Manchekar

for the Respondents

M.A. is allowed.

Sd/-
(A.P. Kurhekar)
Member (J)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders Date:- 15.11.2018
<p>15/11/18</p> <p>Shri. A. P. Kurhekar, Member (J)</p> <p>A.V. Bandiwadkar</p> <p>S.D. Dole</p> <p>12/12/18</p> <p>Sba</p>	<p><u>O.A.No.1001 of 2018</u></p> <p>P.M. Koli ... Applicant</p> <p>Vs.</p> <p>The State of Maharashtra & Ors. ... Respondents</p> <p>1. Heard Shri A.V. Bandiwadkar, the learned Advocate for the Applicant and Shri S.D. Dole, the learned Presenting Officer for the Respondents.</p> <p>2. Issue notice before admission made returnable on 12.12.2018.</p> <p>3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.</p> <p>4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.</p> <p>5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.</p> <p>6. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.</p> <p>7. In case notice is not collected within three days or service report on affidavit is not filed three days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.</p> <p>8. This matter will be heard along with O.A.No.923 of 2018.</p> <p>9. S.O. to 12.12.2018.</p> <p>Sd/- (A.P. Kurhekar) Member (J)</p>