

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

NO.MAT/MUM/JUD/ 276 /2016
Maharashtra Administrative Tribunal
Pay & Accounts Barrack Nos.3 & 4,
Free Press Journal Marg,
Nariman Point, Mumbai 400 021.

Date :

C.A. No. 123/2015 IN O.A. No. 27/2015.

1. Shri Sanjay B. Polsane,
R/at. 601/B, Vikrant Co-operative Hsg. Society, Parsik Nagar, Opp. Raj
Park, Kalwa, Thane, Dist. Thane-400 605.

...**APPLICANT/S.**

VERSUS

- 1 Shri Shrivastava Sudhir Kumar,
Addl. Chief Secretary, Finance
Dept., Mantralaya, Mumbai-32.

- 2 Shri Rajiv Jalota, Commissioner for
Sales Tax, having his office at
Vikrikar Bhavan, Mazgaon,
Mumbai-10.

...**RESPONDENT/S**

✓ Copy to : The C.P.O. M.A.T., Mumbai.

*The applicant/s above named has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the 21st day of **January, 2016** has made the following order:-*

APPEARANCE : Shri M.D. Lonkar, Advocate for the Applicant.
Shri A.J. Chougule, P.O. for the Respondents.

CORAM : **HON'BLE JUSTICE SHRI A.H. JOSHI, CHAIRMAN.**

DATE : **21.01.2016.**

- ORDER : 1. Heard Shri M.D. Lonkar, the learned Advocate for the Applicant and Shri A.J. Chougule, the Presenting Officer for the Respondents.
2. Learned Advocate for the Applicant has tendered a G.R. dated 20.01.2016. It is taken on record.
3. Learned Advocate for the Applicant states that he has instructed to withdraw the application because the order is complied with and the Applicant's grievance is considered.
4. In view of the above statement, Contempt Application is disposed of.

Sd/-

**(A.H. Joshi, J.)
Chairman.**

Amal
22/1/2016
**Research Officer,
Maharashtra Administrative Tribunal,
Mumbai**

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

O.A.No.46 of 2016

Shri Amol Kisan Kadam

)...Applicant

VERSUS

State of Maharashtra & Ors.

)...Respondents

Smt. Punam Mahajan, the learned Advocate for the Applicant.

Shri A.J. Chougule, learned Presenting Officer for the Respondents.

DATE : 21.01. 2016.

ORDER

1. Heard Smt. Punam Mahajan, the learned Advocate for the Applicant and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.
2. Learned P.O. for the Respondents has tendered affidavit. It is taken on record.
3. Learned Advocate for the Applicant has prayed for hearing the case for final disposal.
4. Heard. In the midst of hearing what has transpired is as follows:-
The averments contained in paragraph No.6.5.3 and 6.5.4 has not been replied.
5. It is considered necessary to secure the personal affidavit of the Principal Secretary, Revenue and Forest Department i.e. Respondent No.2 answering two paragraph Nos.6.5.3 and 6.5.4.

6. Considering the affidavit as sought on very limited point, it will suffice to grant two days time. He would free to add anything if he chooses.

7. In view that the case is being adjourned, learned Advocate for the Applicant has made submission for grant of interim relief, particularly in the background that reliever has not reported to join till date.

8. It is not disputed by the Respondents that :-

- (a) Applicant still holds the charge of his previous post;
- (b) The reliever yet to report to join.

9. In the peculiar circumstances, that averments contained in paragraph Nos.6.5.3 and 6.5.4 of the O.A. has not been replied, prima-facie Applicant has made out a strong case for grant of interim relief.


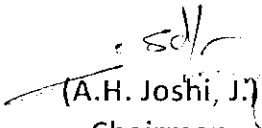
10. Therefore, ad- interim relief seeking stay in terms of prayer clause 10(a) is granted.

11. Stenocopy and Hamdast is allowed to both the parties.

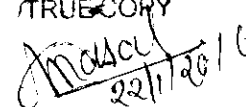
12. Learned P.O. for the Respondents is directed to communicate this order to the Respondents.

13. Affidavit be filed on or before 24.01.2016.

14. S.O. to 28.01.2016.



(A.H. Joshi, J.)
Chairman

sba

TRUE COPY

22/1/2016
Asst. Registrar / Research Officers
Maharashtra Administrative Tribunal
Mumbai

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
O.A.No.232 of 2015**

Shri Pradyumna Govind Garge)...Applicant

VERSUS

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

Shri C.T. Chandratre, the learned Advocate for the Applicant.

Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

DATE : 21.01. 2016.

ORDER

1. Heard Shri C.T. Chandratre, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.
2. In the midst of hearing, it has transpired that:-
 - (a) The suspension order was issued in contemplation of Departmental Enquiry towards misconduct which could have resulted in imposition of major penalty.
 - (b) The competent authority may have visualised a possibility that eventually the disciplinary proceedings may result in imposition of major penalty, and therefore suspension may have been viewed as an apt action at that point of time.
 - (c) Now, after completing the D.E., the Government imposed minor penalty of censure, in contrast with earlier contemplated action for major penalty.
 - (d) It is to be shown by the Government that imposition of minor penalty of censure was resorted in preference over the major penalty sheerly on humanitarian grounds, which prima facie, does not appear to be the purport of the order passed at the end of disciplinary Proceedings.

- (e) By separate order, which is dated 20.12.2011 annexure 'A', the suspension period was decided to be period of "suspension" and not one spent on duty.

3. Subject to justification which may come forward, while the aspects referred in point contained in foregoing paragraph No.3(a) and 3(b) may not be available to be, questioned, however points noted in item 3(c) and 3(d) are seen, prima facie, to be non congruent, and difficult to match.

4. In this background, learned P.O. for the Respondents was called to take instructions and make a statement and submissions on the following points:-

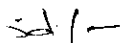
- (a) Does order to treat the period of suspension as period of 'suspension only' amount to dual punishment when, towards proved misconduct only penalty which was ordered was of censure.
- (b) In absence of any narration found in the order dated 24.10.2011 annexure 'A-4', what is the basis on which Government has concluded that the Applicant was reinstated and awarded penalty of censure a minor penalty.
- (c) Do facts justify suspension period not being treated as period spent on duty.

5. Learned P.O. for the Respondents prays for time to take instructions.

6. Time as prayed for is granted.

7. Steno copy and Hamdast is allowed for enabling learned P.O. to communicate this order to the Respondents.

8. Hence, adjourned to 28.1.2016 for hearing.


(A.H. Joshi, J.)
Chairman

sba



THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI
ORIGINAL APPLICATION NO.735 OF 2015

DISTRICT: NASHIK

Shri D.S. Ghadge & Ors.

Applicant

Versus

The State of Maharashtra & Ors.

Respondents

Shri A.S. Deshpande, learned Advocate for the Applicant.

Smt. K.S. Gaikwad, learned P.O. for the Respondents No.1 to 3

Shri K.R. Jagdale, learned Advocate for Respondents No.4 & 5.

Shri A.V. Bandiwadekar, learned Advocate for Respondents No.6 & 7.

CORAM : SHRI R.B. MALIK, MEMBER (J)

DATE : 21.01.2016.

ORDER

1. Heard Shri A.S. Deshpande, learned Advocate for the Applicant, Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents No.1 to 3, Shri K.R. Jagdale, learned Advocate for Respondents No.4 & 5 and Shri A.V. Bandiwadekar, learned Advocate for Respondent No.6 & 7.

2. Shri A.S. Deshpande, the learned Advocate for the Applicant seeks interim order in effect to direct the 2nd Respondent to make no further appointments by promotion to the cadre of Sub Divisional Engineer from amongst Assistant Engineers, Grade -II.

3. This is a matter basically relating to the seniority aspect in the said cadre. There are two seniority lists which will engage the



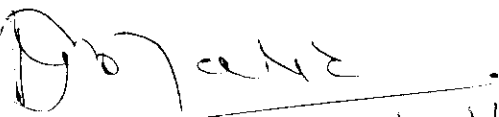
attention of the Tribunal mainly when the O.A. is to be put up for final hearing. The 1st was dated 06.09.2014 which was objected to by the Applicants, as a result of which, the seniority list of 07.07.2015 came to be published. That particular list was cancelled by the order dated 21.08.2015 (Exhibit 'P', page 230) which is why the applicants got aggrieved and brought this O.A. The net result thereof has been that the seniority list of 06.09.2014 stood revived and promotions thereunder are being given. The applicants want that no promotions should be given on the grounds urged on their behalf by Shri A.S. Deshpande. Shri A.S. Deshpande, learned Advocate *inter alia* contended that the result of whatever has come to pass is that the applicants may have to work under those who joined 25 years after the applicants joined services. As a matter of fact, as to now, it is not really necessary to set out the facts in detail. That is, because at the moment the Tribunal is considering only the issue of whether interim relief should be granted to the applicant and I have already mentioned as to what the interim relief is that they seek.

4. Learned P.O. and learned Advocates for the Private Respondents stoutly opposed grant of any interim relief. They contended that no prejudice is going to be caused, if the promotions are effected. Learned P.O. Smt. K.S. Gaikwad told me that the administration would suffer if the promotions were to be held in abeyance. By the order of 06.10.2015 made by the Hon'ble Chairman, the Respondents were directed to keep five posts in the cadre of Deputy Engineers unfilled until further orders or till the affidavit-in-reply was filed whichever was earlier. Now the affidavits-in-reply have been filed and Shri A.S. Deshpande told me that the applicants do not want to file affidavit-in-rejoinder.



5. Smt. K.S. Gaiwkad, the learned P.O., however, requested that now that the affidavit in reply has been filed, the interim order should be vacated. In my view the discussion, hereinabove, is sufficient as of today to decide if the interim relief sought by the applicants of practically holding the promotions in abeyance needs to be granted. In my view regard being had to the fact that the applicants are five in numbers and promotional posts are much more than that which exact number unfortunately has not been mentioned by learned P.O. But in the context of the fact such as they are including the fact as to whether the challenge to the impugned action holds water it will not be just and proper to hold up the whole promotion itself. Although in all fairness, I must record that all the contestants are ad-idem that O.A. be heard expeditiously.

6. In my opinion however the interim order made by the Hon'ble Chairman can safely be continued till further orders, because at the end of the day to the maximum extent possible the interest of all concerned should be safe guarded and that course of action having been adopted there is no question to accept learned P.O. request as of today. Interim order vide paragraph 9 (06.01.2014) is now continued till further orders. O.A. is admitted and as an expedited O.A. it should appear before appropriate Bench on 24.02.2016. Hamdast.


21-1-16

(R.B. Malik)
Member(J)

prk