

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 213 OF 2023

DIST. : NANDED

Chandrakant s/o Kisan Awachar,
Age : 39 years, Occu. Service
as Sr. Accountant, Office of Project Officer,
Integrated Tribal Development
Project Office at Kinwat, Dist. Nanded,
R/o Kohinoor Colony, Gokunda,
Kinwat, Tq. Kinwat, Dist. Nanded.

.. **APPLICANT.**

V E R S U S

- 1) The State of Maharashtra
Through Secretary,
Finance Department,
Mantralaya, Mumbai – 32.
- 2) The Director Accounts & Treasury,
Kasturi Building, Ground Floor,
J. TATA Marg, In front of
Petroleum House, Church Gate,
Mumbai – 400 020.
- 3) The Joint Director Accounts &
Treasury, 3rd Floor, Fajalpura,
Near Collector Office, Aurangabad,
Dist. Aurangabad – 431 001.

.. **RESPONDENTS.**

APPEARANCE :- Shri V.G. Pingle, learned counsel for the
applicant.
: Shri I.S. Thorat, learned Presenting
Officer for the State authorities.

**CORAM : Hon'ble Shri Justice P.R. Bora,
Vice Chairman**

DATE : 25th July, 2023

ORAL - ORDER

Heard Shri V.G. Pingle, learned counsel for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondent authorities.

2. The applicant was transferred on 30.11.2022 on promotion from the post of Junior Accountant to Senior Accountant to Kinwat, Dist. Nanded from Aurangabad. Accordingly, he resumed the duties of the said post. Since wife of the applicant is in the Police Department and was posted at Harsul and on one more ground that his mother is aged lady and suffering from heart disease, the applicant had made a request to respondent No. 3 vide his application/representation dated 1.12.2022 to give him posting at or nearby Aurangabad. Respondent No. 3 vide his communication dated 13.12.2022 positively responded to the aforesaid application-cum-representation submitted by the applicant and informed the applicant that as and when any post would become vacant in the cadre of Senior Accountant in Aurangabad, the applicant will be considered for giving posting on the said post on priority.

I deem it appropriate to reproduce the entire text of the said communication as it is in vernacular, which reads thus: -

“जा.क्र.सहसंलेवको/प्रशा-१/श्री अवचार/२०२२/२९९२ दिनांक :- 13 DEC 2022

प्रति,
श्री सी के. अवचार,
कनिष्ठ लेखापाल

विषय :- वरिष्ठ लेखापाल संवर्गात अंशतः बदल करून मिळणेबाबत.

संदर्भ :- १. आपला अर्ज दिनांक ०९.१२.२०२२.
२. आपला अर्ज दिनांक ०२.१२.२०२२.

उपरोक्त संदर्भिय विषयांच्या अनुषंगाने कळविण्यात येते की, सदयस्थितीमध्ये सहसंचालक, लेखा व कोषागारे, औरंगाबाद या कार्यालयात वरिष्ठ लेखापाल या संवर्गामध्ये पद रिक्त नसल्यामुळे भविष्यात या कार्यालयात वरिष्ठ लेखापाल यांचे पद रिक्त झाल्यास आपला प्राधान्याने पदस्थापनेसाठी विचार केला जाईल.

सही /-
(उत्तम सोनकांबळे)
सहसंचालक,
लेखा व कोषागारे, औरंगाबाद”

The applicant thereafter has filed the present O.A. on 14.3.2023 with the following prayer:-

“B) By issuing appropriate directions the respondent No. 3 authority may kindly be directed to consider his claim and request made by him in representations dated 09.01.2023 and 06.03.2023 sympathetically as per communication dated 13.12.2022, when one post of Senior Accountant will be vacant after retirement of employee on 31.05.2023 on superannuation.”

3. Pointed query was made by me with the learned counsel appearing for the applicant whether any post had become vacant in the Aurangabad region in the period between

13.12.2022 till the date of filing O.A. i.e. 14.3.2023 and whether any other candidate was given posting on the said post, the learned counsel submitted that no such thing had happened.

4. The question arises what is the cause of action for filing the O.A. by the applicant? It is not the case of the applicant that in between period 1.12.2022 till filing of the present O.A. by him any post of Senior Accountant became vacant and respondent No. 3 gave posting to some other candidate despite a concrete assurance given by him vide his letter dated 13.12.2022. In the O.A. it is the case of the applicant that on 31.5.2023 one post of Senior Accountant is going to be vacant because of the retirement of the employee working on the said post. In the circumstances, the applicant filed the present O.A. seeking directions against respondent No. 3 to consider claim made by him in his representations dated 9.1.2023 and 6.3.2023.

5. I have gone through the contents of both the aforesaid letters. In the said letters also similar reasons are mentioned by the applicant seeking his posting at Aurangabad, as were mentioned in the letters dated 1.12.2022 and 2.12.2022. In the letter dated 6.3.2023 the applicant has made a specific request to respondent No. 3 to give him posting in place of Senior

Accountant Shri S.N. Gajbhare, retiring on 31.5.2023, on attaining the age of superannuation. Within 08 days' of forwarding such request letter to respondent No. 3, the applicant has filed the present O.A. seeking direction against respondent No. 3 to consider his claim on the post, which was likely to be vacant on 31.5.2023.

6. In background of facts as aforesaid it is apparent that on 14.3.2023 no cause of action had accrued for filing the present O.A. by the applicant. Vide his letter dated 31.12.2022 when respondent No. 3 has informed the applicant that in future whenever the post of Senior Accountant would fall vacant in his office, preference will be given to the applicant for his posting in the said post, the cause of action would have arisen for the applicant to file the O.A. had somebody else appointed/posted in the said post. When respondent No. 3 himself had given positive assurance to the applicant, it is not understood why the applicant filed the present O.A. seeking directions against the said respondent to positively consider the applicant for his posting on the place, which was going to be vacant on 31.5.2023. It is not the case of the applicant that some other candidate has also claimed the posting on the said post which was going to be vacant on 31.5.2023.

7. In the circumstances, it does not appear to me that the Tribunal shall entertain such application without having any cause of action for its filing. The learned counsel for the applicant submitted that the applicant has made an innocuous prayer that his representation be considered by respondent No.3. The question arises why the Tribunal shall issue such directions to respondent No. 3 when he himself has given such assurance to the applicant vide communication dated 13.12.2022. From the discussion made hereinabove it is evident that without there being any cause of action the applicant has preferred the present O.A. Such practice requires to be deprecated. In the result, the following order is passed: -

ORDER

- (i) The Original Application is dismissed for being filed without any cause of action therefor.
- (ii) There shall be no order as to cost.

VICE CHAIRMAN

Place : Aurangabad

Date : 25.7.2023