

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 599 OF 2023**

DISTRICT : HINGOLI

**Dr. Devendra s/o Ramrao Jaybhaye, )**  
Age : 39 years, Occu. Service as )  
Medical Officer, District Training Centre, )  
Hingoli, Tq. & Dist. Hingoli. )

.. **APPLICANT**

VER S U S

**1) The State of Maharashtra, )**  
Through its Principal Secretary, )  
Public Health Department, )  
8<sup>th</sup> Floor, G.T. Hospital, )  
New Mantralaya, Mumbai – 1. )

**2) The State of Maharashtra, )**  
Through its Secretary, )  
General Admn. Department, )  
Mantralaya, Mumbai – 32. )

**3) The Commissioner, Health Services,) )**  
Directorate of Health Services, )  
Arogya Bhavan, Near CST Station )  
Georg Hospital Compound, )  
National Health Mission, Mumbai.)

**4) The Director, )**  
Health Services, Maharashtra State,) )  
Arogya Bhawan, )  
Saint George Hospital Campus, )  
Mumbai. )

.. **RESPONDENTS**

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**APPEARANCE** : Shri S.B. Bhosale, Counsel for Applicant.  
: Shri N.U. Yadav, Presenting Officer for  
respondent.  
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**CORAM : JUSTICE P.R. BORA, VICE CHAIRMAN.**  
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**RESERVED ON : 06.11.2023**

**PRONOUNCED ON : 02.01.2024**  
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### **ORDER**

1. Heard Shri S.B. Bhosale, learned counsel for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondent.

2. The applicant had applied for the post of District Health Officer (for short D.H.O.) pursuant to the advertisement No. 273/2021 issued by the Maharashtra Public Service Commission (for short the M.P.S.C.). On 2.12.2022, the M.P.S.C. published the list of the eligible candidates for recommendation. The M.P.S.C. has recommended the name of the applicant for his appointment on the said post. Thereafter, on 19.1.2023 the applicant was required to opt for the Revenue Division of his choice and was also directed to submit the indemnity bond after opting for any particular Revenue Division. The applicant opted for Aurangabad Revenue Division and accordingly submitted the indemnity bond.

3. It is the contention of the applicant that the posts of Group-A officer were available at Hingoli, which comes in Aurangabad Revenue Division. As stated in the application, wife of the applicant is working in Zilla Parishad, Hingoli. The applicant had, therefore, given an option for Aurangabad Revenue Division. However, the respondent no. 1 posted the applicant in Nasik Revenue Division for which he has not opted for. The applicant, therefore, immediately submitted representation to respondent no. 1 for change in his Revenue Division. As is revealing from the record the said representation was rejected by the State vide its communication dated 21.6.2023, which was served upon the applicant on 26.6.2023.

4. It is the grievance of the applicant in the present Original Application that the respondents have gone wrong in giving posting to the applicant in Nasik Revenue Division, which was not opted by the applicant. According to the applicant, the respondents have violated the provisions under the Maharashtra Government Allotment of Revenue Divisions for appointment by nomination and promotion to the posts in Group 'A' and Group 'B' (Gazetted and Non-Gazetted) Rules, 2021 (for short 'the Rules of 2021). It is the further objection raised by the applicant that the provisions under the Rules of

2021 are not duly followed while giving posting to the applicant. In the circumstances, the applicant has approached this Tribunal for quashment of the order, whereby the applicant has been given posting in the Nasik Revenue Division. The applicant has further prayed for giving directions against the respondents to consider his request for change in Revenue Division.

5. The respondents have resisted the contentions raised and the prayers made in the Original Application. The respondents have not disputed that the applicant had exercised his option for Aurangabad Revenue Division and further that there were vacant posts at the relevant time in Aurangabad Revenue Division. It is, however, the further contention of the respondents that the "Revenue Division Allotment for appointment by nomination and promotion to the posts of Group 'A' and Group 'B' (Gazetted and Non-Gazetted) of the Government of Maharashtra Rules, 2015" and Notification to that effect published on 28.4.2015 are superseded by the "Maharashtra Government Allotment of Revenue Divisions for appointment by nomination and promotion to the posts in Group 'A' and Group 'B' (Gazetted and Non-Gazetted) Rules, 2021" and these rules of 2021 are presently holding the field. It

is the further contention of the respondents that the allotment of Revenue division is being done in the order of merit. It is further contended that the respondents had decided to allot 05 posts of D.H.O. in Aurangabad Revenue Division and since, the applicant stands at Sr. No. 21 in the merit list, considering the preferences given by 24 candidates, who were there in the merit list ahead of the applicant, the posts to be filled in in Aurangabad Revenue Division were allotted to the said candidates. It is further contended that, in the circumstances, there was no other option except to give posting to the applicant in some other Revenue Division than Aurangabad. It is further contended that the applicant cannot insist for a particular place for his posting. On the above grounds, the respondents have prayed for dismissal of the Original Application.

6. I have duly considered the submissions made on behalf of the applicant, as well as, the respondents. Majority facts are not in dispute, hence I would not repeat the same. Admittedly, "Rules of 2015" are substituted with "Rules of 2021" and presently said Rules are holding the field. As mentioned in the Original Application, in "Rules of 2015" there was a provision to effect the transfer or issue the order of appointment to the eligible candidate by giving him benefit of couple

convenience at the place where the spouse of the employee is working. In the Rules of 2021, however, no such provision is made. The applicant's wife is working as Extension Officer (Agri.) at Zilla Parishad, Hingoli.

7. As per Rule 6(5)(a) of Allotment Rules of 2021, the allotment of Revenue Division is made by taking into consideration the preferences given by the officers as per their rank/number in the Merit List / Select list and within the limit of number of posts decided for allotment in equal proportion of Revenue Division wise vacant posts as specified in rule 6(4)(d). Rule 6(5)(b) of the said Rules provide that after following the procedure as prescribed in rule 6(5)(a), if there is no post available in the Revenue Division preferred by the applicant, then the allotment of Revenue Division to such officer shall be made by rotation in the remaining Revenue Divisions, which are remained for allotment. It is further provided that while allotting Revenue Division by rotation, the order of allotment shall be in the sequence of Nagpur, Amravati, Aurangabad, Kokan-1, Nashik, Kokan-2 and Pune. As further provided in the said Rule, the Revenue Division will be allotted in accordance with rank/number in Merit List / Select List of the candidate concerned.

8. The number of the applicant is admittedly at Sr. No. 21 in the merit list. In the circumstances, 05 candidates, who are above the applicant in merit list and are admittedly holding the more meritorious position than the applicant if had opted for Aurangabad Revenue Division, obviously the seats were to be allotted in their favour. In this context, it has been argued by the learned counsel appearing for the applicant that more than 05 posts of D.H.O. were vacant in Aurangabad Revenue Division and in the circumstances, despite the fact that 05 candidates were given Aurangabad Revenue Division, the applicant also could have been allotted the Aurangabad Revenue Division and accordingly, given posting at vacant posts of D.H.O. in Aurangabad Region.

9. The contention so raised on raised on behalf of the applicant is difficult to be accepted in view of the provisions under Rule 6(5)(a) of the Rules of 2021, which provides that the allotment of Revenue Division would be made within the limit of number of posts decided for allotment in equal proportion of Revenue Division wise vacant posts as specified in rule 6(4)(d).

10. After having considered the facts as aforesaid in background of the Allotment Rules of 2021, there appears no

error on part of the respondents in not allotting the Revenue Division of Aurangabad to the applicant for which he had given his preference for the reason that it was allotted to some more meritorious candidate than the applicant.

11. It is the contention of the applicant that he has opted Aurangabad Revenue Division for the reason that his wife is working at Hingoli, which falls in Aurangabad Revenue Division. It is the contention of the applicant that due care is taken in almost all service rules to ensure couple convenience of the Government employees. The learned counsel for the applicant has argued that such provision was there in the erstwhile rules of 2015, however, without any rational said provision is not included in the Rules of 2021.

12. Learned counsel submitted that the respondents can now also be directed to consider the case of the applicant for change in Revenue Division. Learned counsel submitted that such change is permissible under Rules of 2021. My attention was invited to the provisions under Rule 12 of Rules of 2021. Rule 12 (1) provides that after allotment of Revenue Division as per the provisions of rules, the concerned officer may apply for

change in the Revenue Division only after completion of one year service in the allotted Revenue Division.

13. On perusal of the provision under Rule 12 of Rules of 2021 it is evident that under the said rule the change in Revenue Division can only be sought on account of serious ailments of Government employee himself or his near blood relations. Couple convenience is not the ground for seeking change in Revenue Division under the said rule. It has to be however, stated that the principles of natural justice are always there and in view of that the request of the applicant can be considered by the respondents. If the post of D.H.O. or any other equivalent post is vacant in Aurangabad Revenue Division, the request of the applicant can be considered by the respondents. In the circumstances as above, it appears to me that the present O.A. can be disposed of with the following directions: -

**ORDER**

- (i) It would be open for the applicant to submit a fresh application for change in Revenue Division after completing the period of 01 year of service at Nashik by elaborating the reasons therein.

- (ii) If such an application is submitted by the applicant, the respondents shall consider the same sympathetically within a period of 06 weeks from the date of filing of such application, however, in accordance with the Rules of 2021.
- (iii) The Original Application stands disposed of in above terms without any order as to costs.

**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 02.01.2024**