

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 739 OF 2022  
(Subject – Posting)**

**DISTRICT : DHULE**

**Gajendra s/o Tanaji Patil,** )  
Age : 40 years, Occu. : Service (Motor Vehicle )  
Inspector) )  
R/o : At Post Doandigar, Taluka- Chalisgaon,) )  
District-Jalgaon. ) )  
Having Head Office at RTO Office, Nashik, and )  
Present posting at Deputy RTO Office, Parbhani.)

.... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through its Under Secretary, )  
Home Department, (Transport), )  
2<sup>nd</sup> Floor, Madam Cama Road, Hutatma )  
Rajguru Chowk, Mantralaya, Mumbai-32.)
2. **The Transport Commissioner,** )  
Maharashtra State, Fountain MTNL Bhavan-2,) )  
5<sup>th</sup> Floor, M.G. Road, Fort, Mumbai-400001.)
3. **Regional Transport Office,** )  
Through RTO, Dudh Bhavan, Dhule, )  
District-Dhule. )
4. **Regional Transport Office,** )  
Through RTO, Peth Road, Panchavati, )  
Nashik-04. )
5. **Deputy Regional Transport Office,** )  
Through Dy. RTO, Parbhani, )  
District-Parbhani. )

**... RESPONDENTS**

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**APPEARANCE** : Shri Sandesh Patil, Counsel for the Applicant.

: Smt. Sanjivani K. Deshmukh-Ghate,  
Presenting Officer for respondent authorities.

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

**DATE : 18.09.2023.**  
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**ORAL - ORDER**

1. Heard Shri Sandesh Patil, learned counsel appearing for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer appearing for respondent authorities.

2. By filing the present Original Application, the applicant has challenged the order dated 02.03.2022, whereby on revocation of suspension of the applicant he has been posted at Parbhani in the office of Dy. RTO.

3. While working at RTO Office at Dhule the applicant came to be impleaded in one criminal case for the offences punishable u/s 447, 269, 188, 271, 120(B) & 201 of IPC, as well as, for the offences punishable under the Pandemic Prevention Act, 1897. The Departmental Enquiry has also been initiated against the applicant and the same is going on. It is the grievance of the applicant that the provision which has been invoked by the respondents while passing the impugned order shall not be applicable and the respondents have wrongly interpreted the said provision. In the impugned order, the

reference is given to clause 7(a) of the G.R. dated 14.10.2011. I deem it appropriate to reproduce the said clause as it is in vernacular, which reads thus :-

“७.(अ) ज्या प्रकरणी शासकीय अधिकारी / कर्मचा-याविरुद्ध वरील परिच्छेद ३ येथील कारणांव्यतिरिक्त केवळ महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम, १९७९ च्या नियम ८ अन्वये विभागीय चौकशी प्रस्तावित अथवा सुरु असल्याच्या कारणाने त्याला निलंबित करण्यात आले असेल अशा प्रकरणी, संबंधित सक्षम प्राधिका-यांनी निलंबनाच्या तारखेपासून ३ महिन्यांनी निलंबनाचा आढावा घ्यावा. आढाव्याअंती पुनस्थापित करण्याचा निर्णय प्रकरणपरत्वे गुणवत्तेनुसार शिस्तभंगविषयक प्राधिकारी यांच्या स्तरावर घेता येईल. ६ महिन्यांच्या कालावधीत विभागीय चौकशीच्या संदर्भातली कार्यवाही पूर्ण झाली नसल्यास अपचा-याला चौकशीच्या कामात हस्तक्षेप करण्यापासून दूर ठेवण्याच्या उद्देशाने त्याची अन्यत्र अकार्यकारी पदावर बदली करण्याच्या अधीन त्याच्या निलंबनाचा आढावा घेउन त्याला पुनस्थापित करण्याचा निर्णय प्रकरणपरत्वे गुणवत्तेनुसार शिस्तभंगविषयक प्राधिकारी यांच्या स्तरावर घेण्यात यावा. अशी कार्यवाही महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम, १९७९ च्या नियम ४(५)(क) मधील तरतूदीनुसार संबंधित प्राधिकरणास करता येईल.”

4. It is the contention of the applicant that very cause for which the respondents have given posting to the applicant at faraway place i.e. at Parbhani as mentioned in the said clause, is not existing. Learned counsel for the applicant submitted that the applicant was required to approach this Tribunal by filing O.A. No. 334/2022 for seeking stay to the enquiry proceedings and this Tribunal in the order passed on 13.04.2022 had restrained the respondents from conducting D.E. initiated against the applicant insofar as charge No. 1 referred against the applicant.

5. Learned counsel pointed out that the charge No. 1 is in relation to the offences registered against him vide C.R. No. 61/2020. Learned counsel submitted that the other charge is of absentism and as such there may not be question of manipulating evidence and keeping away the applicant from the proceedings apprehending that it may adversely affect the Departmental Enquiry. Learned counsel in the circumstances, prayed for setting aside the impugned order.

6. The respondent Nos. 1 to 5 have filed their joint affidavit in reply and opposed the contentions raised in the O.A. and prayers made therein. In the affidavit in reply the reference is given of G.R. dated 14.10.2011 and clause 7(a) thereof, which has been referred to by the learned counsel for the applicant. The respondents have also given reference of certain judgments to oppose the prayer made by the applicant in his O.A.

7. Learned P.O. has retreated the contentions raised in the affidavit in reply in her arguments. Learned P.O. further submitted that in view of criminal proceeding and D.E. pending against the applicant, the decision was taken to transfer the applicant at some other place from Dhule while reinstating him in service. Learned P.O. submitted that decision of posting

applicant at Parbhani is purely administrative decision and no mala-fides are attributed even by the applicant in that regard in his Original Application. Learned P.O. in the circumstances has prayed for dismissal of O.A.

8. After having heard the learned counsel for the applicant and learned P.O., at the outset it has to be stated that in such matters, the Tribunals have a very limited scope of interference. The impugned order, which has been passed is supported with the relevant provisions under the law and the guidelines laid down in the Circulars issued in that regard. The applicant has not denied the institution of criminal case against him. The applicant has also not denied the initiation of D.E. proceedings against him and pendency of both. In the circumstances, if the officer concerned find it appropriate not to keep the applicant on his reinstatement at the same station and find it appropriate to transfer him at Parbhani, at the face of it, no mala-fides can be attributed on the part of the respondents. In the Original Application also the applicant has not come out with such case. Insofar as administrative decisions are concerned, flexibility needs to be given to the officer concerned and no interference is required, unless it is pointed out that there is any gross violation of law or the action is actuated with

mala-fides. Both aspects are absent in the present matter. In the circumstances, it does not appear to me that any interference can be caused in the order impugned in the present O.A. The Original Application, therefore, fails and deserves to be dismissed and is accordingly dismissed. There shall be no order as to costs.

9. At this juncture, learned counsel for the applicant pointed out that the DE against the applicant is likely to be completed within a short time. Learned counsel submitted that after completion of the DE there may not be any difficulty for the respondents to repost the applicant at Dhule. Learned counsel, in the circumstances, has prayed for giving liberty to the applicant to make such application/representation to the respondents. It has to be stated that for making such application/representation no liberty is required to be granted by this Tribunal. The applicant has a right to make such representation by making out reasons therefor. If such an application is made by the applicant, the respondents may decide the same on its own merits and considering the circumstances prevailing at that time.

**PLACE : Aurangabad.**

**DATE : 18.09.2023**

**KPB S.B. O.A. No. 739 of 2022 PRB posting**

**(Justice P.R. Bora)**

**Vice Chairman**