

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 745 OF 2016

DIST. : AHMEDNAGAR

Mr. Sunil Maruti Bhabad,
Age 52 years, Occ. Service,
R/o Near Savitribai School, Kasaba,
Pathardi, Tq. Pathardi,
Dist. Ahmednagar.

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APPLICANT

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Revenue Department,
Mantralaya, Mumbai.
2. The Collector of District Ahmednagar,
Collector Office, Ahmednagar.
3. The Tahsildar, Parner,
Tahsil Office, Parner,
Tq. Parner, Dist. Ahmednagar.

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RESPONDENTS

APPEARANCE : Shri A.P. Avhad, learned Advocate for the
applicant.

: Smt. Sanjivani Deshmukh Ghate, learned
Presenting Officer for respondents.

CORAM : HON'BLE SHRI J. D. KULKARNI, MEMBER (J)

ORDER

(Delivered on this 18th day of January, 2017)

1. The applicant Shri Sunil Maruti Bhabad is serving as a Driver in the
office of res. no. 3. He was serving at Shrigonda, District Ahmednagar.

On 29.4.2016, the Tahsildar, Shrigonda relieved the applicant on the ground of irregular in service. In fact, the Tahsildar has no authority to relieve the applicant as the applicant was not transferred. The applicant immediately approached the res. no. 2 the Collector, Ahmednagar and the res. no. 2 vide its order dated 30.7.2016 directed the applicant to resume the duty at Tahsil Office, Parner i. e. at the office of res. no. 3. The applicant immediately approached the res. no. 3 on 30.7.2016 and requested to allow him to join the service. The applicant was not allowed to join the duties. The applicant repeatedly requested the res. no. 3 to allow him to join the duties, however, the applicant was not allowed to join the duties and hence, the applicant has filed this original application.

2. In this O.A. the applicant is claiming direction to res. no. 3 to allow him to join the duties in the Tahsil Office at Parner in view of the order dated 30.7.2016 issued by res. no. 2.

3. The res. nos. 2 & 3 have filed their affidavit in reply. It is stated that the applicant's request for his posting was accepted and he was directed to join at Tahsil Office at Parner i. e. in the office of res. no. 3. On 9.10.2016, the applicant filed another application and stated that he was not allowed to join the duties by the res. no. 3. The res. no. 2, therefore, issued another letter on 3.9.2016 and called explanation of the res. no. 3. The res. no. 3 submitted his explanation on 8.8.2016. He further sent his detailed explanation on 12.9.2016. In the said explanation the res. no. 3

stated that on 8.8.2016 applicant came in the office of res. no. 3 by consuming alcohol and after taking into consideration the said physical condition of the applicant, he was not allowed to join the duties. The applicant was asked to submit his joining report in the office, but instead of obeying the order of res. no. 3 the applicant unnecessarily argued with the res. no. 3 and left the office without submitting his joining report and since then the applicant neither appeared nor submitted his joining report.

4. The applicant filed his rejoinder affidavit and denied that on 8.8.2016 he appeared in the office of res. no. 3 under the influence of alcohol. It is stated that on 8.8.2016, he has appeared before the res. no. 3 without consuming alcohol and he was in a normal condition and submitted his joining report, but the res. no. 3 refused to allow him to join the duties.

5. Heard Shri Shri A.P. Avhad, learned Advocate for the applicant and Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for respondents. I have perused the affidavit, affidavit in reply as well as the rejoinder affidavit filed by the applicant and various documents placed on record.

6. From the factual facts it is clear that there is no reason as to why the applicant was relieved from Shrigonda since no order of transfer of the applicant was passed. However, the applicant is not challenging his

order of relieving and his only grievance is that he was not allowed to join at Parner by the res. no. 3.

7. It is an admitted fact that the res. no. 2 the Collector, Ahmednagar passed an order whereby the applicant was directed to join at the Tahsil Office, Parner. It is mentioned in the said order that the applicant shall join at Parner immediately. However, from the letter dated 9.8.2016 submitted by the applicant to the res. no. 2 the Collector, Ahmednagar, it seems that, the applicant was not allowed to join the duties by the res. no. 3 at Parner. Even assuming for the sake of argument that the applicant was under influence of the alcohol on 8.8.2016 i. e. at the time of joining at Parner, the Tahsildar, Parner ought to have directed the applicant to appear before the medical authority for verifying the fact as to whether the applicant was under the influence of alcohol. Even otherwise if the applicant was under influence of alcohol, in that case the res. no. 3 ought to have immediately initiated a departmental action against the applicant for the said misconduct or to report the said fact immediately to the superior authority.

8. However, I do not find any reason in not allowing the applicant to join the duties by the res. no. 3 on 8.8.2016, had it been the fact that the applicant was not under the influence of the alcohol. There was no reason for the res. no. 3 to disobey the order passed by the res. no. 2 whereby the applicant was directed to join at Parner.

9. In the circumstances, the affidavit in reply filed by res. nos. 2 & 3 stating the reason for not allowing the applicant to join the duties at Parner, seems to be genuine and mere denial of the applicant in the rejoinder affidavit that the he was not under the influence of the alcohol cannot be accepted. It is also not known as to why the applicant did not approach the res. no. 3 for joining the duties at Parner from 8.8.2016 till today. The respondents will be at liberty to take appropriate departmental action against the applicant for coming to the office of res. no. 3 under the influence of the alcohol on 8.8.2016 and for not joining the duties thereafter till today, however, the said post cannot be kept vacant. Hence, I pass following order :-

ORDER

- (i) The Original Application stands disposed of.
- (ii) The res. no. 3 is directed to immediately allow the applicant to join the services as a Driver at Tahsil Office, Parner in view of the order passed by the res. no. 2 dated 30.7.2016.
- (iii) As already stated in this order, the res. nos. 2 & 3 are at liberty to take appropriate departmental action for the misconduct of the applicant, if any.

There shall be no order as to costs.

MEMBER (J)