

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**CONTEMPT APPLICATION NO. 57 OF 2021
IN
ORIGINAL APPLICATION NO 88 OF 2021**

DISTRICT : SOLAPUR

Shri Utkarsh V. Devkule)
Supply Inspector,)
A-Zone, Food Grain Distribution Officer)
Solapur, R/o At Plot No. 16, Vasant Kunj)
Vishnupuri, Near Ruby Nagar,)
Hotagi Road, Jule Solapur, Dist-Solapur.)...**Applicant**

Versus

1. The State of Maharashtra)
Shri Nitin Karir,)
Additional Chief Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai 400 032.)
2. Shri Sourav Rao,)
Revenue Commissioner,)
Pune Division, Council Hall,)
Vidhan Bhavan, Bund Garden,)
Camp Road, Pune 411 001.)
3. Shri Milind Shambharkar,)
District Collector, Solapur.)
Collector Compound, 1st floor,)
Main Bldg, Siddheshwar Peth,)
Solapur 413 001.)
4. Smt Sujata Saunik,)
Addl. Chief Secretary,)
General Administrative Department,)
Mantralaya, Mumbai 400 032.)...**Respondents**

Shri D.K Chavan, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : **Justice Mridula Bhatkar (Chairperson)**
Mrs Medha Gadgil (Member) (A)

DATE : **24.01.2022**

PER : **Justice Mridula Bhatkar (Chairperson)**

ORDER

1. In this Contempt Application the applicant, who was denied the promotion wrongly to the post of Naib Tahsildar has approached the Tribunal by filing O.A 88/2021. The Tribunal on 27.7.2021, passed the following order:-

“2. Learned C.P.O today produces a communication dated 20.7.2021 from Respondent no. 1 (Revenue and Forest Department), stating that the D.P.C recommended the name of the applicant, namely U.V Deokule, Awal Karkun for promotion to the post of Naib Tahsildar and G.A.D has given approval to the same. The communication further mentions that after getting the recommendation from the Civil Services Board, the promotion order of the applicant will be issued. Copy of the said communication dated 20.7.2021 is taken on record and marked as Exh. ‘A’.

3. Learned C.P.O, therefore, seeks four weeks’ time for the same.

4. In view of the above, Original Application stands disposed of with liberty to the applicant to approach this Tribunal, if the orders of the promotion are not issued.”

2. Thus, the applicant was expecting his order of promotion within four weeks from the date of the said order.

3. In between O.A 689/2021 was filed by applicant, Mr A.S Gengane, who was promoted to the post of Naib Tahsildar, challenged the order of his proposed reversion. It was submitted on behalf of the Respondents that as they wanted to implement the order of this Tribunal dated 27.7.2021 in O.A 88/2021, to give promotion to the present applicant Mr Devkule, and no vacant posts are available, the last person who was promoted to the post of Naib Tahsildar in view of the meeting of the D.P.C conducted by the Divisional Commissioner for the year 2019-2020, Mr, Gengane, applicant in O.A 689/2021, is required to be reverted.

4. In the said Original Application, it was pointed out that the applicant was working on the said post since 19.1.2021 and there are vacancies available for the post of Naib Tashildar in Pune Division which can be considered in the next D.P.C. Hence, this Tribunal directed the Respondent-State to maintain status quo, qua the applicant (Mr Gengane) and it was specifically ordered as follows:-

“There is no status quo against respondent no. 4 (applicant Mr. Devkule), which is required to be promoted as per order dated 27.7.2021 passed in O.A 88/2021.”

5. Thus, there is no ambiguity in the order passed by this Tribunal so far as O.A 88/2021 is concerned. Under any circumstances, the applicant Mr Devkule should have been promoted to the post of Naib Tahsildar as he was denied the promotion erroneously by the Respondents in the meeting of the D.P.C held in the year 2019-2020.

6. Today, Respondents have taken a stand that as the Tribunal has allowed the applicant to continue on the same post and has stopped the reversion, the order of the Tribunal in O.A 88/2021 to

promote Mr Devkule, cannot be implemented because no post is vacant as per D.P.C meeting of 2019-2020.

7. This stand taken by the Respondents is not sustainable in view of the order passed by this Tribunal on 8.10.2021. It is necessary to reproduce the relevant portion of the same to make the position clear:-

“4. On query, learned P.O produces a letter dated 8.10.2021, signed by Deputy Commissioner, Revenue, Pune Division, Pune, wherein it is stated that there are in all 44 posts vacant, i.e. 30 posts from the feeder cadre of Awal Karkun and 14 posts from the feeder cadre of Circle Officer. Learned P.O further submits that the meeting of the Departmental Promotion Committee will be held within a period of two months. Learned P.O submits that there is no vacant post for the year 2019-2020 when the applicant was promoted temporarily as Resident Naib Tahsildar from the select list of 2019-2020.

5. As per the letter dated 8.10.2021, there are still 30 posts of Resident Naib Tahsildar vacant which are to be filled in by way of promotion from the feeder cadre of Awal Karkun. The applicant stands at serial no. 1 in the seniority list. The applicant has also worked on the post of Resident Naib Tahsildar from 19.1.2021. Therefore, we feel that it will be justified that he should be continued on the said post of Resident Naib Tahsildar till the meeting of the D.P.C is held and the results declared.

6. In view of the above, Original Application stands disposed of with direction to the Respondents to allow the applicant to continue as ad hoc promoted on the present post of Resident Naib Tahsildar, Haveli, Dist-Pune till the meeting of the D.P.C is held and the results declared.”

8. Thus, we further clarify that Mr Gengane cannot be considered and given the regular promotion for want of vacant post in the select list of 2019-20 and therefore, he was given promotion by order of the Court as he was promoted on ad hoc basis just to meet the exigency and he was working for more than 8 to 9

months on the said post. He cannot be treated senior to the applicant or other persons who were promoted vide meeting of the D.P.C of the year 2019-2020. He will get regular promotion order after the next D.P.C meeting of 2020-21.

9. We think it is necessary for the Respondents to understand the orders and the action taken by the Court. We are of the view that there are already vacancies available for the post of Naib Tahsildar and the D.P.C meeting of the year 2021 is going to be held within three months as per the instructions from Mr Sriram Yadav, Joint Secretary, Revenue & Forest Department. It is to be noted that his name was already considered in the earlier D.P.C of 2019-20. However, not he, but Mr Devkule has a rightful claim over the said promotion. So Mr Gengane was given ad hoc post as a stop gap arrangement.

10. In view of the above, we direct the Respondents to issue the orders of promotion of Mr Devkulae, by maintaining his seniority within a period of 15 days from the date of the order.

11. Contempt Application stands disposed of.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 24.01.2022
Dictation taken by : A.K. Nair.