

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

CONTEMPT APPLICATION NO.32 OF 2021

IN

ORIGINAL APPLICATION NO.433 OF 2020

Smt. Manjusha Raghynath Kasane,)
Aged : 43 years, posted as Awal Karkoon,)
(Non-Agriculture) in the office of)
Additional Tahasildar (Non-Agriculture), Kalyan)
Dist. Thane R/o. Anna Godbole Wada,)
Shahapur, Dist. Thane.) **...Applicant**

Versus

Mr. Mohan Naladkar,)
Aged Adult, Worked at relevant time as)
Sub-Divisional Officer, Bhiwandi Division,)
Dist. Thane,)
R/o. 1103, Vasundhara Heights, Sector 11,)
Sanpada Navi Mumbai 705) **...Respondent**

Mr. Bhushan A. Bandiwadekar, learned Advocate for Applicant.

Mr. M.D. Lonkar, learned Advocate along with Ms. S.P. Manchekar,
learned Chief Presenting Officer for Respondent.

CORAM : **Justice Ms. Mridula Bhatkar, Chairperson**
Ms. Medha Gadgil, Member(A)

DATE : **23.12.2021**

PER : **Justice Ms. Mridula Bhatkar, Chairperson**

J U D G M E N T

1. Before transfer order dated 10.08.2020, the Applicant was posted in the office of Sub-Divisional Officer (SDO), Bhiwandi. Thereafter, she was transferred from Bhiwandi to Shahapur. Hence, the Applicant filed the present Contempt Application.

2. The order of transfer dated 10.02.2021 is the subject matter of this Contempt. The learned Single Bench has passed the following order :-

- “(a) The Original Application is allowed.*
- (b) The impugned transfer order dated 10.08.2020 is hereby quashed and set aside.*
- (c) The Applicant be reposted within two weeks from the today.*
- (d) No order as to costs.”*

3. In the affidavit-in-reply filed by Mr. Lonkar on behalf of Respondent, Mr. Mohan Naladkar, Deputy Collector-cum-Competent Authority, Mumbai has pointed out two things :-

- (a) The present Respondent was not a party to the Original Application.
- (b) Moreover respondent has complied with the order passed on 06.04.2021, whereby the Applicant was reposted as Awal Karkoon, Revenue Department, Bhiwandi

4. The Applicant has challenged the order dated 24.03.2021 issued by the SDO, Bhiwandi in O.A.No.262/2021 and transfer order dated 23.04.2021 in O.A.No.455/2021. Both the orders were quashed and set aside by the learned Single Bench of this Tribunal by order dated 14.12.2021 which reads as under :

- “(A) The Original Application is allowed partly.
(B) The orders dated 24.03.2021, 06.04.2021 issued by the SDO, Bhiwandi as well as order dated 23.04.2021 issued by Collector, Thane are quashed and set aside.
(C) Consequently, the posting order of Respondent No.2 in place of Applicant by order dated 18.05.2021 is also quashed and set aside.
(D) The Respondent No.1 – Collector is at liberty to give appropriate posting to Respondent No.2.
(E) The Respondent No.1 is directed to repost the Applicant as Awal Karkool in the office of SDO, Bhiwandi from which she was transferred from within two weeks from today and compliance report be submitted with Registrar of this Tribunal.
(F) No order as to costs.”*

5. The learned Counsel Mr. Bandiwadekar appearing for the Applicant pointed out that the learned Single Bench of the Tribunal in the said order dated 14.12.2021 has observed that not giving the same post when the applicant is reposted is audacity to show disrespect towards the order passed by the Tribunal and the authority has played with the words while implementing the order of the Tribunal.

6. We have gone through the three orders which were passed by the Contemnor in compliance with the judgment dated 10.02.2021 of the Tribunal.

- * First order dated 24.03.2021
- * Second order is the revised order dated 24.03.2021
- * Third order dated 06.04.2021 was modified order of posting the applicant.

7. We have also gone through the affidavit-in-reply filed by the Respondent. It is true that the Respondent was never the party in either of the Original Applications in which the orders were passed by the Single Bench. It is admitted fact that the applicant who was earlier transferred from Bhiwandi to Shahpur is brought back to Bhiwandi SDO

office, pursuant to the impugned order of the Tribunal dated 10.02.2021 which is the subject matter of the Contempt. Further it is also admitted fact that she was brought back in the Revenue Department, office of SDO, Bhiwandi. Thus to that extent the order is already complied with. She was given the same posting in the same cadre. However she was not given the same type of work which she was doing earlier. It is too harsh to hold that the Respondent has committed deliberate disobedience of the order of the Tribunal, in view of Section 2(g) of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred as 'ROT Act 2005' for brevity) where the 'post' is defined.

8. There is every possibility that the nuances of the legal terms in the Act may not have properly understood by the officer. The officer has tendered the unconditional apology in the affidavit and has stated that he did not intent to disobey the order of the Tribunal and according to him he has complied with the order. Thus, it is the matter of understanding the legal terms which is different under Section 2(g) of ROT Act 2005.

9. We would like to refer to the judgment dated 01.09.2021 of the Hon'ble Bombay High Court in Writ Petition No.9984/2019 & Ors. The State of Maharashtra & Anr. Versus Anuradha Subhash Dhumal & Ors., wherein the term 'post' under Section 2(g) of ROT Act 2005 and so also terminology of 'place of posting' which is applicable for the purpose of

Section 22N of the Maharashtra Police Act, 1951 are distinguished and explained.

10. The Respondent officer to take the note of the ratio laid down in the said matter for his own benefit. Under such circumstances we did not find that the Respondent had deliberate intention to disobey the orders.

11. In view of the above, Contempt Application is dismissed.

Sd/-
(Medha Gadgil)
Member(A)

Sd/-
(Mridula Bhatkar J.)
Chairperson

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