

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**M.A.NO.472 OF 2021 IN M.A.NO.222 OF 2021
IN
ORIGINAL APPLICATION NO.87 OF 2020
WITH
ORIGINAL APPLICATION NO.87 OF 2020**

M.A.NO.472 OF 2021 IN O.A.No.87 OF 2020

1. Mr. Rajendra Vinayak Kardak)
2. Mr. Avinash Dashrath Bhandvalkar)
3. Mr. Rajan Balkrishna Salvi)
4. Mr. Vikas Shankar Shejwal)
5. Mr. Rajendra Dattatraya Suryavanshi)
6. Mr. Bharat Changdeo Ingale)
7. Mr. Bharat Chandya Vasave)
8. Mr. Divakar Dnyanadeo Kamble)
9. Mr. Manik Abaso Jadhav)
10. Mr. Kiran Balwant Jadhav)
11. Mr. Ranjitsingh Bandoba Pawar)
12. Mr. Suhas Jibhau Mandlik)
13. Mr. Ravindra Jabaji Jekate)
14. Mr. Govindra Motiram Gaikwad)
15. Mr. Shankar Kisan Rathod)
16. Mr. Adinath Vishwanath Bachkar)
17. Mr. Vinayak Rajaram Shete)
18. Mr. Sandeep Dayanad Torne)
19. Mr. Dashrath Maruti Bamble)
20. Mr. Laxmikant Somnath Sawle)
21. Mr. Prashant Prabhakar Gunjal)
22. Ms. Khema Laxman Sonkamble)
23. Mr. Shrinivas Ashruji Kedar)
24. Mr. Sunilkumar Vishnukant Pandey (Retd.))

Address for service of Notice :

Mr. Bhushan A. Bandiwadekar,)
Advocate for the Applicants.)

....Applicants

Versus

1. The State of Maharashtra)
Through Principal Secretary,)
Medical Education and Drugs Department,)
Having office at Mantralaya, Mumbai 400 032)
2. The State of Maharashtra,)
Through Principal Secretary,)
Urban Development Department,)
Having office at Mantralaya, Mumbai 400 032)
3. The State of Maharashtra,)
Through Additional Chief Secretary,)
General Administration Department,)
Having office at Mantralaya, Mumbai 400 032)
4. The Commissioner,)
Food and Drugs Administration,)
M.S. Having office at 341, Bandra-Kurla Complex,)
Bandra (E), Mumbai 400 051.)

....Respondents

WITH

M.A.NO.222 OF 2021 IN O.A.No.87 OF 2020

1. Mr. Rajendra Vinayak Kardak & 23 Ors.)

....Applicants

Versus

1. The State of Maharashtra & 4 Ors.)
5. Mr. Ulhas Vinayakrao Ingawale,)
Working as Food Safety Officer,)
F & D Administration Pune.)
6. Mr. Ram Dattatraya Munde,)
Working as Food Safety Officer,)
F & D Administration Pune.)
7. Mr. Gautam Vishwanath Jagtap,)
Working as Food Safety Officer,)
F & D Administration Pune.)

8. Mr. Santosh Laxminarayan Shiroshiya)
 Working as Food Safety Officer,)
 F & D Administration Pune.)

.**Respondents**

Mr. Bhushan A. Bandiwadekar, learned Advocate for the Applicants.

Ms. K.S. Gaikwad, learned Presenting Officer for the Respondents No.1 to 4.

Mr. C.T. Chandratre, learned Advocate for the Private Respondents No.5 to 8.

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

DATE : 28.10.2021

PER : Justice Ms. Mridula Bhatkar, Chairperson

J U D G M E N T

1. In this matter the applicants who were earlier working as Food Safety Officers in the local bodies have entered the stream of Government service in the year 2011 under the Department of Food and Drugs Administration coming under the Respondent-State. The learned Advocate for the Applicants pressed the application for interim relief.

2. It is pointed out that at the relevant time the choice was given to the Food Safety Officers of the local bodies to remain in the same stream or come under the State and these applicants had opted for joining the State services in 2011. As per the Government Resolution (G.R.) dated 19.06.2018 the past services of the applicants they had put in local

bodies cannot be counted in the seniority, but the date of their joining Food and Drugs Administration Department will be the date for fixing their seniority. The learned Advocate Mr. Bandiwadekar for the Applicants submitted that this particular rule is adversely affecting the promotional chances of the Applicants as they are pushed down against the other officers who had joined like them in 2011. When they joined they were not aware that their seniority was going to be pushed down. He relied on the correspondence dated 31.08.2018 written by the Municipal Commissioner, Thane to the Food and Drugs Administration Department, Mumbai. Thereafter he also relied on letter dated 04.04.2012 of the Under Secretary of the State to the Commissioner, Food and Drugs Administration Department, Mumbai about giving protection to the 59 Food Safety officers who are going to be absorbed. He further relied on the letter dated 04.09.2012 written to the Secretary, Medical Education wherein he has informed that out of total 57 Food Safety officers in Maharashtra working in the local bodies, 14 officers have refused to join as they wanted to continue working in the local bodies. Out of 43 Food Safety officers, 17 officers have given the consent for joining the State Government. He has given the names of those persons who have opted for absorption. The learned Advocate Mr. Bandiwadekar submitted that they were absorbed in the year 2011 and at that time their services were protected and their consent was obtained accordingly. He further submitted that the Government is likely to issue the promotion orders of the post of Assistant Commissioner of Food in a

short while. Hence, such action of the Respondent to be stayed to protect the seniority of the Applicants.

3. The learned P.O. Ms. Gaikwad for the Respondents No.1 to 4 and learned Advocate Mr. Chandratre appearing for the Private Respondents No.5 to 8, while opposing prayer of interim stay has submitted that the Applicants have no well-founded ground to oppose these promotions. The learned P.O. submitted that there is delay in challenging the G.R. dated 19.06.2018. The Government has taken a policy decision of absorbing these applicants in the year 2018 by the said G.R. and the decision of absorption was not taken in the year 2011. Therefore, conditions as which are mentioned in the G.R. dated 19.06.2018 are the controlling terms and conditions of the absorption. She submitted that in the year 2011 they were given appointment in the service of the State and therefore the date of the absorption is not 2011, but 2018. She further submitted that the Government wants to promote the officers who are already working in the State on these posts. The learned Advocate Mr. Chandratre while adopting the arguments of the learned P.O. has pointed out that the Applicants were working as Group-C employees, at Municipal Corporation, local bodies. However, due to their appointment in the State they are taken in the higher rank i.e. Group-B and as it was beneficial to these applicants who have opted to join the State service. They have also relied on the same correspondence which is relied by the learned Advocate Mr. Bandiwadekar. The learned P.O. Ms. Gaikwad and learned Advocate Mr. Chandratre have submitted that

no assurance was earlier given to them of keeping their seniority intact when they joined the services.

4. It is true that as per the G.R. of 2018 the seniority of the applicants is pushed down by the original Food Safety Officers who are already working in the Government setup. There is delay in challenging the G.R. of June 2018 as the O.A. is filed on 28.01.2020. Respondent-State have filed their affidavit-in-reply dated 09.03.2021 in O.A. The learned Advocate Mr. Chandratre has also filed affidavit-in-reply dated 05.04.2021 of the Respondents.

5. The Applicants have moved the M.A.No.472 of 2021 and M.A.No.222 of 2021 for interim relief. However, in those Miscellaneous Applications the affidavit-in-reply is not filed by the Respondents. However, as the matter is pressed today for interim relief having apprehension that the orders of the promotions are going to be issued shortly, we perused the correspondence Notification of 2011 and especially the letter dated 04.09.2012 written by the Commissioner, Food and Drugs Department to the Secretary, Medical Education. It appears that the Government has expressly made clear by letter dated 04.09.2012 that the seniority of this in-coming Food Safety Officers will be after the seniority of the Food Safety Officers who were working in the State cadre erstwhile. The Commissioner has given the reason for doing so that the cadre of the applicants in the local bodies was in the Group-C and the cadre of the Food Safety Officers working the State is Group-B

and therefore by applying the principles of natural justice it is proper to place the in-coming Food Safety Officers i.e. the Applicants below the existing Food Safety Officers working with the State Government.

6. The submissions of the learned Advocate Mr. Bandiwadekar that the Commissioner, Municipal Corporation, Thane by letter dated 31.08.2012 has mentioned that the applicants have given their consent to be forwarded only because they are protected in terms of their seniority cannot be accepted. We are of the view that the said letter is not properly read and understood by the Applicants. The Commissioner has informed that the Applicants while agreeing for absorption and had given their consent, subject to seniority, pay and allowances, which are available and existing as per the Rules of the State of Maharashtra.

7. Applicants could not show us the erstwhile Rules how the seniority of the Applicants should have been protected at the time of absorption. Moreover, no further promise was given by the State of putting the applicants in between or above the then existing Food Safety Officers in the seniority. On the contrary, the Commissioner, Food and Drugs Department has clearly explained that the seniority of the applicants will be put below the then Food Safety Officers working in the State Government.

8. Under such circumstances, no prima facie case is made out by the Applicants, to grant interim relief. Hence, we are not inclined to grant any interim relief.

9. M.A.No.472 of 2021 and M.A.No.222 of 2021 are hereby disposed of. Original Application listed for final hearing on 07.12.2021.

Sd/-
(Medha Gadgil)
Member(A)

(Mridula Bhatkar, J.)
Chairperson

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