Thakur

[Spl/MAT/F-5/E]

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

NO.MAT/MUM/JUD/3099 /2016
Maharashtra Administrative Tribunal
Pay & Accounts Barrack Nos.3 & 4,
Free Press Journal Marg,
Nariman Point, Mumbai 400 021.

Date : 23 AUG 2016

M.A. No. 98/2016 IN O.A No. 509/2015 With
M.A. No. 231/2016 IN O.A No. 509/2015.
(Sub :- Demotion)

1 Pramod Kolapte,
R/at. C 101, Bldg. No.2, Om CHS Mhada Colony, Chandivali, Mumbai-72.

....**APPLICANT/S.**

VERSUS

1 Resident Commissioner & Secretary Govt. of Maharashtra, Maharashtra Sadan, Copernicus Marg, New Delhi-110001.

2 Addl. Chief Secretary & Chief Protocol Officer, G.A.D., Govt. of Maharashtra, Mantralaya, Mumbai-32.

...**RESPONDENT**/S

Copy to : The C.P.O. M.A.T., Mumbai.

The applicant/s above named has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the ***19th*** day *of* ***August, 2016*** *has made the following order:-*

APPEARANCE : Shri D.B. Khaire With Shri A.D. Sonkawade, Advocate for the Applicant.
Shir S.K. Nair, Special Counsel for the Respondents No. 1 to 3.
Shri S.K. Chadha, for Proposed Respondents No. 4 & 5.

CORAM : **HON'BLE SHRI RAJIV AGARWAL, VICE-CHAIRMAN.**
HON'BLE SHRI R.B. MALIK, MEMBER (J).

DATE : **19.08.2016.**

ORDER : **M.A. No.98/16 IN O.A. No.509/15-Order Copy Enclosed/Order Copy Over Leaf**

(M.A. No. 231/16 IN O.A. No. 509/15) :- Heard Shri A.D. Sonkawade, the learned Advocate for the Applicant, Shri S.K. Nair, the learned Special Conusel for the Respondents 1 to 3 and Shri S.K. Chadha, the learned Advocate for proposed Respondents 4 & 5.

We have perused the Affidavit of service. Mr. Chadha undertakes to file Vakalatnama for Respondents 4 & 5. The learned Advocate for the Applicant shall make sure that during the course of the day today, the entire set of OA as well as MA is furnished to the learned Advocate Shri Chadha and the learned Special Counsel Shri Nair.

S.O. to 23rd September, 2016.

Sd/-
(R.B. Malik)
Member (J)

Sd/-
(Rajiv Agarwal)
Vice-Chairman.

Anjal 22/8/2016

Research Officer,
Maharashtra Administrative Tribunal,
Mumbai.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

MISC.APPLICATION NO.98 OF 2016
IN
ORIGINAL APPLICATION NO.509 OF 2015

DISTRICT : NEW DELHI

Shri Pramod G. Kolapte.)...**Applicant**

Versus

Resident Commissioner & Anr.)...**Respondents**

Shri D.B. Khaire with Shri A.D. Sonkawade, Advocates for Applicant.

Shri S.K. Nair, Special Counsel for Respondents.

CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)

DATE : 19.08.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)

JUDGMENT

1. This is an application for amendment of the OA. We have perused the record and proceedings and heard Shri D.B. Khaire, the learned Advocate for the Applicant and Shri S.K. Nair, the learned Special Counsel for the Respondents.

2. The issue is as to whether the proposed amendment survives the test of the law relating to amendments and our findings thereon, is in the affirmative for the following reasons.

3. The Original Application which is being sought to be amended hereby is brought stung by an order of reversion or demotion of the Applicant and certain other consequential reliefs.

4. The sum and substance of the case of the Applicant in so far as this MA is concerned is that certain facts came to fore as a result of the answers received in an enquiry under Right to Information Act, and therefore, new facts as per the proposed amendment and a prayer clause is being sought to be incorporated.

5. The Affidavit-in-reply opposes the application which was pursued at the Bar. In so far as the merit of the plea sought to be incorporated hereby is concerned, we are quite clearly of the view that in this MA, we only have to examine as to whether it survives the test of law of amendments. We are not herein concerned with the merit of the plea itself which would be considered naturally at the hearing of the OA. Despite stiff resistance on behalf of the Respondents, we are very clearly of the view that no such plea is being sought to be incorporated which would

take the Respondents by irretrievable surprise and significantly, some surprise of the nature as to become difficult to be met with. We are very clearly of the view that both at the stage of pleadings as well as arguments and more particularly, Additional Affidavit-in-reply to the amended OA are all the avenues open to the Respondents to safe-guard their interest. In as much as we have to safe-guard the interest of both the sides, we uphold this application and allow the proposed amendment to be incorporated within two weeks from today. A consolidated copy of the OA post amendment be filed and copies thereof be furnished to the Respondents to enable them to file the Affidavit-in-reply.

6. The Original Application stands adjourned to Affidavit-in-reply / Additional Affidavit-in-reply to [illegible] September, 2016 and the Misc. Application is allowed in these terms with no order as to costs.

Sd/- 19.08.16

(R.B. Malik)
Member-J
19.08.2016

Sd/-

(Rajiv Agarwal)
Vice-Chairman
19.08.2016

Mumbai
Date : 19.08.2016
Dictation taken by :
S.K. Wamanse.
E:\SANJAY WAMANSE\JUDGMENTS\2016\8 August, 2016\M.A.231.16 in O.A.509.15.w.8.2016.doc

TRUE COPY

22/8/2016

[illegible] Tribunal
Mumbai