

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 576 of 2022 (S.B.)

Santosh Ganeshrao Chapate,
Aged about 37 years, Occ. Service (Talathi),
R/o Kailash Nagar, near Gopal Nagar, Amravati,
Tah. & Dist. Amravati.

Applicant.

Versus

- 1) The State of Maharashtra,
through it's Principal Secretary,
Revenue and Forest Department, Mantralaya, Mumbai-32.
- 2) The Divisional Commissioner,
Amravati Division, Amravati, Camp Amravati.
- 3) The District Collector, Amravati, Tah. & Dist. Amravati.
- 4) The Sub Divisional Officer,
Amravati, Tah. & Dist. Amravati.
- 5) Ajay S/o Ramdhaosing Chauhan,
Aged about 51 Yrs., Occ. Service,
R/o Sant Apartment, Rashtrasant Colony,
Arjun Nagar, Arcon, Amravati, Tah. & Dist. Amravati.

Respondents.

Shri S.N. Gaikwad, Advocate for the applicant.

Shri M.I. Khan, learned P.O. for respondent nos.1 to 4.

Shri V.R. Deshpande, Advocate for respondent no.5 (Intervener).

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 13/04/2023.

JUDGMENT

Heard Shri S.N. Gaikwad, learned counsel for the applicant, Shri M.I. Khan, learned P.O. for respondent nos.1 to 4 and

Shri V.R. Deshpande, learned counsel for respondent no.5 (Intervener).

2. The applicant has challenged the impugned order dated 20/05/2022. In this O.A., it is the contention of applicant that as per the order dated 18/04/2022 he was posted at Akoli, but subsequently the respondent no.4 has passed the order dated 20/05/2022 by amending the posting order of applicant from Akoli to Amravati. By the impugned order the applicant was posted at Amravati.

3. By the interim order, this Tribunal has stayed the impugned order dated 20/05/2022. It is the contention of respondent nos.2 and 3 that after revocation of suspension and during the pendency of departmental inquiry officer / employee shall not be posted on executive post, he shall be given posting of non executive post. The respondent no.4 was directed by the Collector, Amravati vide letter dated 28/03/2022 to modify / correct the posting of applicant as per the guidelines given in the order dated 10/02/2022.

4. The learned counsel for the applicant has pointed out the letter issued by the Commissioner, Amravati dated --- January,2020. The learned counsel for applicant submits that the suspended Talathi after reinstatement shall be posted on his original post. The learned

counsel for applicant has submitted that as per this letter the posting of applicant at Akoli is legal and correct.

5. Heard Shri V.R. Deshpande, learned counsel for respondent no.5 (Intervener). He has submitted that the applicant was trapped by the Anti Corruption Bureau (ACB) at Akoli. He was suspended. After revocation of suspension, again he was posted at Akoli. Hence, the posting of the applicant on the same post is not legal and correct. He has pointed out the guidelines / order issued by the Commissioner, Amravati dated 10/02/2022 and the letter to the SDO, Amravati issued by the Collector, Amravati dated 18/05/2022.

6. After perusal of the documents, it appears that though the applicant was not at fault, but the Sub Divisional Officer (SDO) who has issued the posting order was at fault, it is for him to verify the guidelines. Now it is the well established principle of law that the person who was suspended for taking bribe amount, cannot be posted after revocation of the suspension on the same post at same place. The guidelines are given by the Commissioner, Amravati to all the Officers in the district. The letter of Collector, Amravati dated 18/5/2022 also shows that the suspended employee shall not be posted at the same place / original post.

7. The learned counsel for applicant has placed much more reliance on the letter of Divisional Commissioner, Amravati. In this

letter date is not mentioned. However, this letter only shows that it is of January, 2020. If it was correct, then the Divisional Commissioner should have mentioned the date before his signature, there is also no date on the said letter. Moreover, this letter is against the settled principles of natural justice. This letter is also against the guidelines issued by the Government from time to time. Now as per the established guidelines given by the Government, the suspended employee cannot be posted on the original post till completion of departmental inquiry. There is no dispute that the departmental inquiry is going on against the applicant. The applicant was trapped at Akoli while receiving the bribe amount. Again he was re-posted on his original post. The said posting order appears to be not legal and proper. Hence, the O.A. itself is not tenable. Therefore, the following order is passed –

ORDER

- (i) The O.A. is dismissed with no order as to costs.
- (ii) In the meantime, interim relief to continue till 20/04/2023.
- (iii) Steno copy is granted.

Dated :- 13/04/2023.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 13/04/2023.