

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 708 of 2021 (D.B.)**

Vilas s/o Ramraoji Babarekar,  
Aged about 51 years, Occupation: Service,  
R/o Anand Vihar Colony, Near Echhapur, Bajrangbali Temple,  
Shegaon, Rahatgaon Road, Amravati, Dist. Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through Secretary, Soil & Water Conservation  
Department, Mantralaya, Mumbai-400 032.
- 2) Chief Engineer & Additional Commissioner,  
Soil & Water Conservation Department, Nagpur.
- 3) Superintendent Engineer,  
Regional Water Conservation Officer,  
Soil & Water Conservation Department, Amravati.

**Respondents.**

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**Shri M.R. Khan, Advocate for the applicant.  
Shri V.A. Kulkarni, learned P.O. for respondents.**

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

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**Date of Reserving for Judgment : 17<sup>th</sup> October, 2023.**

**Date of Pronouncement of Judgment : 31<sup>st</sup> October, 2023.**

**JUDGMENT**

**(Delivered on this 31<sup>st</sup> day of October, 2023)**

Heard Shri M.R. Khan, learned counsel for the applicant  
and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The regular Division Bench is not available. The Hon'ble  
Chairperson, M.A.T., Principal Bench, Mumbai issued Circular

No.MAT/MUM/JUD/469/2023,dated 24/04/2023. As per the direction of Hon'ble Chairperson, if both the parties have consented for final disposal, then regular matter pending before the Division Bench can be disposed off finally.

3. The matter is heard and decided with the consent of learned counsel for both the parties.

4. The case of the applicant in short is as under –

The applicant was working as a Deputy Engineer and Sub Divisional Water Conservation Officer in the Soil and Water Conservation Department from 04/08/2017. In pursuance of the G.R. dated 31/05/2017, the Soil and Water Conservation Department was newly established. The Soil and Water Conservation Department sought options from the employees to give their options whether they want to work in the Soil and Water Conservation Department or Water Resources Department. The applicant should have been absorbed in the Soil and Water Conservation Department, but his name is not shown in the seniority list of the Soil and Water Conservation Department. Therefore, the applicant has filed this O.A. for the following relief –

**“(7) RELIEF SOUGHT:**

*It is therefore most humbly and respectfully prayed that this Hon'ble Tribunal be pleased to:-*

*(A) Issue an appropriate order or direction to respondent no.1 to absorb the name of the applicant in the final seniority list maintained by the respondent No.1 as on 1/1/2019 and 1/1/2020 pursuant to Government Resolution issued by the Soil & Water Conservation Department on 24/08/2020 (ANNEXURE-A3) in the interest of justice.*

*(B) Issue an appropriate order or direction to the respondent no.1 to decide the representations made by the applicant on 10/01/2020 and 15/06/2021 (ANNEXURE A6 & A7), in the interest of justice; and grant stay to promotions orders dtd. 29/10/2020 and 10/08/2021.*

*(C) Saddle the cost of the proceedings upon the respondents;*

*(D) Grant any other relief in favour of the applicant which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case, in the interest of justice.*

**(8) INTERIM ORDERS IF ANY PRAYED FOR:**

*The applicant at this juncture is seeking interim relief in the said matter as under:*

*Issue an appropriate order or direction to the respondent no.1 to absorb the name of the applicant in the seniority list maintained by the respondent no.1 as on 1/1/2019 and 1/1/2020 pursuant to Govt. Resolution dated 24/8/2020 and granting promotion to the other Engineers for the post of Deputy Engineer to Executive Engineer and further grant stay to promotion orders dtd. 29.10.2020 & 10.08.2021 shall be subject to the decision of the Original Application in the interest of justice.”*

5. The O.A. is strongly opposed by the respondent nos.1 to 3. It is submitted that the applicant is trying to contend that since he is promoted and posted in the Soil and Water Conservation Department, he is deemed to have been employee of the said Department. However, the applicant came to be promoted in the cadre Sub

Divisional Engineer by his parent Department, i.e., the Water Resources Department as per the order dated 04/08/2017 and only posted in the respondents department, i.e., the Soil and Water Conservation Department on deputation.

6. The respondents have issued Government G.R. dated 31/05/2017. The applicant has not given any option and therefore he cannot claim that he should be absorbed in the Soil and Water Conservation Department and he should be given promotion by entering his name in the seniority list of the Soil and Water Conservation Department. Hence, the O.A. is liable to be dismissed.

7. The whole dispute is based on the G.R. dated 31/05/2017. The material part of the G.R. (P-22) is reproduced below –

“(iv) मृद व जलसंधारण विभागाच्या आस्थापनेवर वरील परिच्छेद ८ iii) मध्ये नमूद केलेल्या पदांवर जलसंपदा विभागाचे अधिकारी/कर्मचारी सन १९९२ पासून तात्पुरत्या प्रतिनियुक्तीवर कार्यरत आहेत. सध्या कार्यरत असलेल्या जलसंपदा विभागाच्या या सर्व अधिकारी / कर्मचा-यांकडून, ते त्यांच्या मूळ जलसंपदा विभागाकडे परत जाणार आहेत अथवा मृद व जलसंधारण विभागात समायोजित होणार आहेत याबाबतचे विकल्प दि.१५ जुलै, २०१७ पर्यंत भरून घेण्यात येतील. त्यानुसार जे अधिकारी/कर्मचारी हे मृद व जलसंधारण विभागाकडे समायोजित होण्याचा विकल्प देतील त्यांना या विभागाच्या आस्थापनेवर समायोजित करण्यात येईल.

परंतु, जे अधिकारी/कर्मचारी त्यांच्या मूळ जलसंपदा विभागाकडे परत जाण्याचा विकल्प देतील असे सर्व अधिकारी/कर्मचारी त्यांच्या मूळ जलसंपदा विभागाकडे परत जाण्यासाठी पात्र

ठरतील. परंतु, अशा सर्व अधिकारी / कर्मचा-यांना या शासन निर्णयाच्या दिनांकापासून यापुढील ४ वर्षांपर्यंतच्या कालावधीकरिता मृद व जलसंधारण विभागाच्या आस्थापनेवर कार्यरत ठेवण्यात येईल. या विभागाच्या आस्थापनेवरील पदे जसजशी भरण्यात येतील तसतसे या विभागाकडे न राहण्याचा विकल्प दिलेल्या जलसंपदा विभागाच्या अधिकारी/कर्मचा-यांना पुढील ४ वर्षांमध्ये टप्प्याटप्प्याने त्यांच्या विभागाकडे परत पाठविण्यात येईल.

मात्र, या दरम्यान जलसंपदा विभागाचे जे अधिकारी/कर्मचारी पदोन्नत होतील व पदोन्नतीनंतर त्यांना मृद व जलसंधारण विभागात पद उपलब्ध नसल्यामुळे अथवा पदोन्नतीनंतर त्यांना जलसंपदा विभाग दर्शविला गेल्यास अशा अधिकारी/कर्मचा-यांना पदोन्नतीनंतरच्या पदावर रुजू होण्यासाठी या विभागाकडून कार्यमुक्त करण्यात येईल.

परंतु आणखी असेही की, जलसंपदा विभागाकडील एकूण मंजूर, भरलेल्या व रिक्त या पदांचे जे प्रमाण आहे तेच प्रमाण या विभागाकडील कार्यरत व रिक्त पदांच्या बाबतीत कायम राखण्यात येईल. ”

8. There is no dispute that the applicant was / is the employee of Water Resources Department. As per the G.R. dated 31/05/2017, options were called from those employees who were willing to work in the Water Resources Department Or in the Soil and Water Conservation Department. The specific date was given in the G.R. itself. The options were called till 15/07/2017. There is no dispute that the applicant had not given any option till 15/07/2017. His only contention is that he is working in the Soil and Water Conservation Department, therefore, he should be absorbed in the said Department. It is pertinent to note that his parent department is

the Water Resources Department and not the Soil and Water Conservation Department. He has not complied the G.R. dated 31/05/2017 by giving option before 15/07/2017. Therefore, the applicant cannot claim that he should be absorbed permanently in the Soil and Water Conservation Department. Hence, the O.A. is without any merit and therefore the following order is passed-

**ORDER**

The O.A. is dismissed with no order as to costs.

**Dated** :- 31/10/2023.

**(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 P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 31/10/2023.