

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 849 of 2021 (S.B.)

Kailash S/o Shankarrao Gade,
Aged about 55 years, Occ. Service,
R/o Shahu Nagar, Chikhali, Tq. Chikhali,
Dist. Buldana-443 201.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-400 032.
- 2) Inspector General of Registration and Controller
of Stamps, New Administrative Building, Opposite of
Old Councils Hall, Pune-01.

Respondents.

Shri A.P. Sadavarte, Advocate for the applicant.
Shri A.M. Ghogre, learned P.O. for respondents.

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

Dated :- 28/09/2022.

JUDGMENT

Heard Shri A.P. Sadavarte, learned counsel for applicant
and Shri A.M. Ghogre, learned P.O. for respondents.

2. The case of applicant in short is as under –

The applicant was posted as a Valuation Sub Registrar,
Grade-I at Yavatmal on 30/03/2017. Thereafter, he was transferred
and posted at Wardha on the same post. It is submitted that in view of

the guidelines in the Government G.R. dated 09/04/2018 the options are to be taken and as per the recommendation of Civil Services Board, the posting is to be given. The applicant had given 10 choices for posting. He had not given the choice for posting at Wardha, therefore, the impugned transfer order is illegal and liable to be quashed and set aside.

3. Heard the learned P.O. for respondents Shri A.M. Ghogre. He has pointed out the reply filed by respondent no.2. As per the reply, the applicant was prosecuted for the offence punishable under Section 7 (13) of the Anti Corruption Act. He is convicted by the Special Judge, Bhandara on 13/06/2019. The inquiry is pending. Hence, the applicant cannot get the benefit of the G.R., because, he is already convicted for the offence of Anti Corruption Act. Hence, the O.A. is liable to be dismissed.

4. Heard learned counsel for applicant Shri A.P. Sadavarte. He has pointed out the decision of the Maharashtra Administrative Tribunal, Principal Bench, Mumbai in O.A. No. 954/2019 and the Judgment of Hon'ble Supreme Court reported in AIR 1981, SC,1990.

5. There is no dispute that the applicant is convicted. Once the offence is proved, it is for the employer to decide as to whether the applicant is to be continued in service or not. The Judgment of conviction is challenged before the Hon'ble High Court, but till date the

conviction is not set aside by the Hon'ble High Court. Therefore, at this stage it cannot be said that the applicant is a clean person. After recording the evidence by the Special Judge, the applicant is convicted for accepting the bribe. Hence, the applicant cannot claim that he should be posted at a particular place, because, the inquiry is going on against the applicant, no stay was granted against the impugned transfer order and the applicant has already joined at the transferred place. The cited decision is not applicable in the present case. Hence, the following order –

ORDER

The O.A. is dismissed. No order as to costs.

Dated :- 28/09/2022.

(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 : 28/09/2022.

Uploaded on : 30/09/2022.

ok