

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 304/2021 (S.B.)**

Suresh S/o Gangaram Annapure,  
Aged 53 years, Occ. Service,  
R/o Jawade Compound, Amravati.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through its Principal Secretary,  
Medical Education and Drugs Department,  
Mantralaya, Mumbai.
- 2) Shri S.S. Deshmukh,  
Aged Adult, Joint Commissioner (Food), (Kokan Division),  
Medical and Drugs Department,  
Mantralaya State Office, Ground floor, 9<sup>th</sup> floor,  
Warden MIDC Building,  
Waghde Estate Road No.16, Thane (West)-400 604.
- 3) Shri S.S. Desai,  
Aged adult, Occ. Joint Commissioner (Food),  
having its office of Joint Commissioner (Pune Division)  
Food and Drugs Administration, Maharaja  
Sambhajirao Road, Udhog Bhawan, 5<sup>th</sup> floor,  
Bremen Chowk, Aundh, Pune-411 607.

**Respondents.**

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**Shri S.P. Palshikar, Advocate for the applicant.**

**Shri A.P. Potnis, Id. P.O. for respondent no.1**

**Shri D.M. Kale, Id. counsel for respondent no.2**

**Shri S.M. Bhagde, Id. counsel for respondent no.3**

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**Coram :- Hon'ble Shri Shree Bhagwan,  
Vice-Chairman.**

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**Date of Reserving for Judgment : 28<sup>th</sup> July,2021.**

**Date of Pronouncement of Judgment : 2<sup>nd</sup> August,2021.**

**JUDGMENT**

**(Delivered on this 2<sup>nd</sup> day of August,2021)**

Heard Shri S.P. Palshikar, Id. counsel for the applicant, Shri A.P. Potnis, Id. P.O. for respondent no.1, Shri D.M. Kale, Id. counsel for respondent no.2 and Shri S.M. Bhagde, Id. counsel for respondent no.3.

2. The applicant was transferred vide order dated 14/6/2017 (A-3,P-30) from Mumbai to Amravati. Subsequently, the applicant was asked for choice after completion of full tenure vide order dated 8/4/2020 (A-4,P-31). The applicant submitted his proposal on Page 33 for Thane, Bruh Mumbai, Pune & Nashik. By record, it appears that a proposal was submitted to the Hon'ble Chief Minister on 10/8/2020 and on page 57 the Hon'ble Chief Minister has clearly directed (foHkkxkus ulxjh I ok eMGP; k f'kQkj'khl g i Lrko Qj I knj djkok ). The Civil Services Board meeting placed on 5/10/2020 which is at page 58&59 and the Civil Services Board has not recommended the name of respondent nos.2&3 and reasons they have mentioned in the last column which is reproduced below -

**2- Jh f'k l - n l kb l gvk; Qr ¼/¼½&**

¼1½ cnyh vf/kfu; e] 2005 e/khy dye 3 ¼1½ e/; s uen d syyk dkyko/kh i qkz>kysyk ul Y; kus cnyhl i k= ukghr-

¼2½ cnyh vf/kfu; e]2005 e/khy dye 4¼4½ e/; s uen d s; ki ek.ks vi oknkRed i fjfLFkrhr vFkok fo 'ksk dkj .ksul Y; ke Gscnyhdj.; kr ; Å u; sv'khf'kQkjI dj.; kr ; s vlgS

**3- Jh l q l -n s l e f k l gvk; Qr ¼/¼½&**

¼1½ cnyh vf/kfu; e] 2005 e/khy dye 3 ¼1½ e/; s uen d syyk dkyko/kh i qkz>kysyk ul Y; kus cnyhl i k= ukghr-

¼2½ cnyh vf/kfu; e]2005 e/khy dye 4¼4½ e/; s uen d s; ki ek.ks vi oknkRed i fjfLFkrhr vFkok fo 'ksk dkj .ksul Y; ke Gscnyhdj.; kr ; Å u; sv'khf'kQkjI dj.; kr ; s vlgS

3. It appears that again proposal has been submitted without following direction given by the Hon'ble Chief Minister on page 57 on 8/10/2020 and after signature of Hon'ble Chief Minister on page 63 transfer orders were issued on 2/11/2020 (A-1,P-23&23A) of respondent nos.2&3. It appears that both these orders are against direction of Hon'ble Chief Minister and recommendation of Civil Services Board. It should be in the interest of justice that the respondents should understandable about the Hon'ble Supreme Court Judgment in Writ Petitions (C) No.82/2011 with 234/2011, decided on 31/10/2013 in case of **T.S. R. Subramanian & Ors. Vs. Union of India & Ors.**, where following directions were given. The point Nos.B

(P-732) and (g) & (h) on page no. 733 are relevant for transfer which are as follows -

*“ (B) Centre, State Governments and the UTs directed to provide minimum tenure of service to various civil servants within three months (13 States already having accepted it) and*

*(g) Some eminent retired civil servants filed the present writ petition under Article 32 of the Constitution for bringing about reforms as per recommendations of several committees and commissions for preservation of integrity, fearlessness and independence of civil servants at the Centre and State levels.*

*(h) The three principal areas of reforms indicated in the reports of committees and commissions included : (a) constitution of an independent Civil Service Board (CSB) having statutory character and similar boards at the State level for making recommendations on transfers to the political executive, (b) fixed tenure of civil servants for ensuring their stability and a protection mechanism of inquiry, adjudication and compensation to transferred officers, etc., against unreasonable premature transfers having no public interest, and (c) formal recording of all instructions/ directions/ orders/suggestions which he/she receives, not only from his/her administrative superiors but also from political authorities, legislators, commercial and business interests and other persons/ quarters having interest, wielding influence or purporting to represent those in authority based on the principles recognised by Rules 3 (3) (ii) and 3 (3) (iii) of the All India Services (Conduct) Rules, 1968. The committees indicated that even if some States had set up an independent CSB, it was not satisfactory, not statutory and merely gave effect to wishes of the political*

*executive, And that Central and State Civil Service Acts have to be enacted to confer statutory character on CSBs.”*

4. On perusal of record, it appears that the respondent no.2 vide order dated 12/9/2018 (A-8,P-42) was transferred from Thane to Pune and the respondent no.3 was transferred from Pune to Thane vide order dated 6<sup>th</sup> September,2018 (A-9,P-43). Again as per transfer order dated 2/11/2020 (A-1,P-23) the respondent no.3 is transferred back to Pune from Thane and vide order dated 2/11/2020 on page 23A the respondent no.2 is transferred back from Pune to Thane. When the order dated 12/9/2018, order dated 6<sup>th</sup> September,2018 (A-9,P-43) and order dated 2/11/2020 (A-1,P-23) and vide order dated 2/11/2020 on page 23A are scrutinised. It is crystal clear that the respondent nos.2&3 are manipulating their transfer orders with malafide intention. When the order dated 2/11/2020 was issued following irregularities have been committed.

(i) Civil Services Board has been by passed. The proposal was not placed before the Civil Services Board before submitting it to the Hon'ble Chief Minister as per his order on page no.63.

(ii) Order of Hon'ble Chief Minister on page 63 has been violated.

5. After the Civil Services Board meeting dated 5/10/2020 the Department should have placed the proposal of applicant and the respondent no.2 and the respondent no.3 before the Civil Services

Board and file should have been further process to Hon'ble Chief Minister along with the minutes of meeting of Civil Services Board as per direction given by Hon'ble Chief Minister on page 63.

6. In view of this situation, transfer order dated 2/11/2020 at page no.23 and transfer order dated 2/11/2020 at page no.23A appears to be malafide in nature and so requires to be quashed and set aside. Hence, following order –

**ORDER**

- (i) The transfer orders dated 2/11/2020 at page no.23 and transfer order dated 2/11/2020 at page no.23A are quashed and set aside.
- (ii) The Department is directed to follow proper procedure as discussed in above paras and then issue transfer orders.
- (iii) No order as to costs.

**Dated** :- 02/08/2021.

**(Shree Bhagwan)  
Vice-Chairman.**

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

Name of Steno :

Court Name : Court of Hon'ble Vice-Chairman.

Judgment signed on : 02/08/2021.

and pronounced on

Uploaded on : 02/08/2021.