

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 452 of 2023 (S.B.)**

Prabhakar S/o. Pralhad Wankhede,
Aged about 53 years, Occ; Service,
R/o. Executive Engineer, Vidharbha
Hydro Electric and Lift Irrigation Division,
Yavatmal, Bangarnagar, Yavatmal.

Applicant.

Versus

- 1) State of Maharashtra,
Through its Secretary,
Department of Water Resources,
Mantralaya, Mumbai- 32.
- 2) Chief Engineer (Electrical),
Hydro Electrical Project, Mumbai,
office At 4th Floor, HSBC Building,
Hutatma Chowk, Mumbai.
- 3) Vidharbha Irrigation Development Corporation,
Through its Executive Director, Nagpur.
- 4) Shri Dhananjay Dahedar,
aged about Major, Occ: Executive Engineer,
R/o Office At 4th Floor, HSBC Building,
Hutatma Chowk, Mumbai.

Respondents.

Shri S.S. Dhengale, Advocate for the applicant.

Shri S.A.Sainis, P.O. for respondent nos.1 to 3.

S/Shri M.K. Thombre, G.K. Bhusari, Advs. for respondent no.4.

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

Dated :- 13/03/2024.

J U D G M E N T

Heard Shri S.S. Dhengale, learned counsel for applicant, Shri S.A. Sainis, learned P.O. for respondent nos.1 to 3 and Shri G.K. Bhusari, learned P.O. for respondent no.4.

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

The applicant was appointed as a Junior Engineer on 09/07/1997. Thereafter he was promoted from time to time. Lastly, he was promoted on 28/12/2021 on the post of Executive Engineer and he was posted at Yavatmal. Additional charge of the post of Superintending Engineer after the transfer of Mr. Dhananjay Dahedar (R/4) to Mumbai was given to the applicant. Thereafter, respondent nos.1 and 2 issued impugned order dated 04-05-2023 / 10-05-2023 by which the additional charge was decided to be given to respondent no.4. Therefore, the applicant has challenged the order dated 04-05-2023 / 10-05-2023.

3. The O.A. is strongly opposed by all the respondents. Respondent nos.1 and 2 have submitted that respondent no.4 is more competent. He is senior than the applicant, therefore, additional charge was given to respondent no.4 of the post of Superintending Engineer at Nagpur. Respondent no.4 has submitted that he is senior and he was looking after the work at Nagpur before his transfer to Mumbai of the said post and therefore he is well conversant with the

work of Superintending Engineer at Nagpur, therefore, he is capable of handling additional charge of the said post therefore respondent nos. 1 and 2 given the additional charge as per the impugned order.

4. During the course of submission, the learned counsel for applicant has pointed out the G.R. dated 05/09/2018. The State Government has given guidelines how the additional charge is to be given. Para-2 of the said G.R. is reproduced as below –

“२. उपरोक्त परिस्थिती विचारात घेऊन, अतिरिक्त कार्यभार कोणास देण्यात यावा यासंदर्भात खालीलप्रमाणे मार्गदर्शक सूचना देण्यात येत आहेत :-

१) महाराष्ट्र नागरी सेवा (वेतन) नियम, १९८१ मधील नियम ५६ नुसार शासकीय कर्मचाऱ्यांकडे त्याच्या स्वतःच्या पदाव्यतिरिक्त दुसऱ्या पदाचा अतिरिक्त कार्यभार सोपविण्यात येतो. असा हा दुसऱ्या रिक्त असलेल्या पदाचा अतिरिक्त कार्यभार, एकाच प्रशासकीय विभागांतर्गत, प्रशासकीय सोय व निकड लक्षात घेवून शक्यतो त्याच कार्यालयातील, त्याच संवर्गातील सर्वात सेवाजेष्ठ, अनुभवी व कार्यक्षम अधिकारी/कर्मचाऱ्यांकडे सोपविण्यात यावा. जेथे असे अधिकारी/कर्मचारी उपलब्ध नसतील तेथे संबंधित पदाला लगत असलेल्या निम्न संवर्गातील सर्वात ज्येष्ठ अधिकारी/कर्मचाऱ्यांना अतिरिक्त कार्यभार देण्यात यावा. काही बाबींमुळे सर्वात ज्येष्ठ अधिकारी/कर्मचारी यांना डावलून नंतरच्या व्यक्तीला अतिरिक्त कार्यभार द्यावयाचा असेल तर सर्वात ज्येष्ठ व्यक्ती अतिरिक्त कार्यभारासाठी का अपात्र आहे त्याची लेखी कारणे अभिटिप्पणीत नमूद करावीत.

२) अतिरिक्त कार्यभार दिलेला अधिकारी/कर्मचारी, त्याच्या मूळ पदाच्या कर्तव्य व जबाबदारीसह, त्याच्यावर अतिरिक्त कार्यभार सोपवलेल्या पदाची कर्तव्ये व जबाबदाऱ्या पार पाडू शकेल याची संबंधितांनी खातरजमा करावी,

३) प्रशासकीय सोय व निकड लक्षात घेऊन, प्रशासकीय विभागाच्या अधिपत्याखालील कार्यालयातील रिक्त पदाचा अतिरिक्त कार्यभार देण्याकरिता, वरील (१) नुसार, त्याच कार्यालयात अधिकारी/कर्मचारी उपलब्ध नसतील अशा वेळी, प्रशासकीय विभागास त्यांच्या अधिपत्याखालील अन्य कार्यालयातील त्याच संवर्गातील सेवाजेष्ठ व अनुभवी अधिकारी/कर्मचाऱ्यांचा विचार करता येईल. तसेच, जेथे एका जिल्ह्यात एकच कार्यालय असेल अशावेळी लागून असलेल्या जिल्ह्याच्या कार्यालयातील अधिकारी/कर्मचाऱ्यांना अतिरिक्त कार्यभार देण्याबाबत विचार करता येईल. तथापि, असे करताना, अतिरिक्त कार्यभार दिलेला अधिकारी/कर्मचारी, त्याच्या मूळ पदाच्या कर्तव्य व जबाबदारीसह त्या पदाची कर्तव्ये व जबाबदाऱ्या पार पाडू शकेल याची संबंधितांनी खातरजमा करावी.

४) विभागीय चौकशी सुरु असलेल्या अधिकारी/कर्मचाऱ्यांस अतिरिक्त कार्यभार दिल्यामुळे त्याच्या स्वतःच्या विभागीय चौकशीवर प्रभाव पडण्याची वा विभागीय चौकशीमध्ये अडथळा आणण्याची शक्यता असल्यास, अशा अधिकारी/कर्मचाऱ्यांना अतिरिक्त कार्यभार देण्यात येऊ नये.

५) अतिरिक्त कार्यभार दिलेले रिक्त पद तातडीने भरण्याची कार्यवाही संबंधित प्रशासकीय विभागाने करावी.

६) महाराष्ट्र नागरी सेवा (वेतन) नियम, १९८१ मधील नियम ५६ नुसार अतिरिक्त वेतन/विशेष वेतन देण्यासंदर्भात वित्त विभागाने वेळोवेळी दिलेल्या शासन आदेशानुसार प्रशासकीय विभागांनी कार्यवाही करावी.”

5. The learned counsel for applicant submitted that the applicant is working at Yavatmal. He is capable to handle the additional charge of the post of Superintending Engineer at Nagpur. Note sheet was put up by the Desk Officer. It is signed by the Chief Engineer, etc. The said note sheet was approved by the Minister of State and additional charge was given to the applicant.

6. The learned counsel for applicant has pointed out letter issued by the MLA Kishor Jorgewar and submitted that on the recommendation / letter of MLA, additional charge was decided to be given to respondent no.4. It is against the G.R. Moreover, respondent no.4 is working at Mumbai and he is not able to handle the charge at Nagpur. Therefore, the impugned order is liable to be quashed and set aside.

7. The learned P.O. has pointed out the above stated G.R. He has pointed out clause-2 of the G.R. and submitted that the respondent / authority has to decide who is competent to handle the

additional charge. As per his submission, respondent no.4 is more competent. Therefore, additional charge was given to respondent no.4 by the impugned order. Hence, the O.A. is liable to be dismissed.

8. The learned counsel for respondent no.4 Shri G.K. Bhusari submits that respondent no.4 was working at Nagpur. He is transferred to Mumbai. He is well versed of the work which he had done of the earlier post at Nagpur. Therefore, he is more competent to handle the additional charge at Nagpur. Hence, the impugned order is perfectly legal and correct. Therefore, the O.A. is liable to be dismissed.

9. There is no dispute that respondent no.4 is transferred from Nagpur to Mumbai. He wants the additional charge of the post of Nagpur. It appears that he wanted the said charge to get opportunity to come to Nagpur at the expenses of State Government on the ground that he is having additional charge at Nagpur. It appears that he is more interested to work at Nagpur and not at Mumbai.

10. The learned P.O. has submitted that respondent no.4 is more competent. Nothing is pointed out as to whether the applicant is not competent to handle additional charge at Nagpur. The applicant is working at Yavatmal. While granting interim relief, this Tribunal in para-5 of the order dated 11/05/2023 has recorded the reasons. Para-5 of the order is reproduced below –

*“5. The learned counsel for the applicant submits that till date (today), the applicant is having additional charge. The applicant has not handed over the charge to respondent no.4. From the perusal of order dated 10/05/2023 it appears that the charge is to be given to respondent no.4 on 11/05/2023 i.e. today itself. It is not possible to accept the same because without handing over the charge by applicant, the respondent no.4 cannot take over the charge. The Govt. has taken a specific policy decision to whom the additional charge is to be given. As far as possible, the senior most employee in the office has to be given additional charge. The respondent no.4 is working as Executive Engineer at Mumbai. The applicant is working at Yavatmal i.e. in Nagpur Circle. As per the recommendation of Chief Engineer dated 14/10/2022 the applicant is given additional charge of the post of Superintending Engineer, Nagpur. As per the order dated 09/3/2023 handing over charge of respondent no.4 of the said post is against the G.R. dated 05/09/2018. In Clause 1 to 3 of the said G.R. clearly shows that additional charge generally is to be given to the senior most employee of that office. If the senior most employee is not available, then the nearest senior most employee has to be given the said charge. The applicant is working in Nagpur Circle at Yavatmal, whereas, the respondent no.4 is working at Mumbai. Handing over the additional charge to respondent no.4 who is working at Mumbai is against the G.R. dated 05/09/2018. Hence, **the impugned order dated 10/5/2023 is stayed till filing of reply.**”*

11. As per the Government G.R. and posting of the applicant and respondent no.4 is considered, then Yavatmal is very near to Nagpur as compared to Mumbai. It appears that the Government has taken the decision after the recommendation of Chief Engineer and

other Superior Officers of the applicant and respondent no.4. The said minutes were approved by the State Minister and additional charge was given to the applicant. It appears that one MLA Kishor Jorgewar is interested for the posting / additional charge of respondent no.4. Therefore he had issued one letter to the Deputy Chief Minister Shri Devendra Phadavis, dated 11/01/2023 for giving additional charge to respondent no.4. It appears that due to political pressure, respondent nos.1 and 2 have decided to give additional charge to respondent no.4. It appears that respondent no.4 is more interested to work at Nagpur instead of Mumbai. He was already working on the post of Superintending Engineer, Nagpur. He is transferred to Mumbai. He again wants the additional charge of the post at Nagpur. Therefore, the impugned orders issued by R-1 and 2, dated 04-05-2023 / 10-05-2023 are not legal and correct. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The impugned orders dated 04-05-2023 / 10-05-2023 are hereby quashed and set aside.
- (iii) No order as to costs.

Dated :- 13/03/2024.

(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 : 13/03/2024.