

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 459 of 2023 (S.B.)

Dr. Vijay Shamrao Rahate,
Age about 57 years,
Occupation- Service As Assistant Commissioner,
Animal Husbandary, Digras
R/o at present Digras, Tq. Digras, Dist. Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary, Department of Animal Husbandry,
Mantralaya, Mumbai-32.
- 2) The Commissioner,
Animal Husbandary (M.S.)
Aundh Road, Opp. Spicer College Road,
Aundh, Pune-411067.
- 3) The District Deputy Commissioner,
Animal Husbandary, Yavatmal.

Respondents.

S/Shri D.P. Dapurkar, K. Rothale, Advocates for the applicant.
Shri M.I. Khan, learned P.O. for the respondents.

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

Dated :- 20/06/2023.

JUDGMENT

Heard Shri D.P. Dapurkar, learned counsel for the applicant and Shri M.I. Khan, learned counsel for the respondents.

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

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

4. The applicant was appointed as a Live Stock Development Officer on 17/05/1996. Thereafter, he was appointed as Assistant Commissioner, Animal Husbandry and posted at Achalpur on 27/09/2012. On 18/10/2021, the applicant was transferred from Amravati to Digras on the post of Assistant Commissioner, Animal Husbandry at Taluka Mini Veterinary Polyclinic. On 02/02/2023, the applicant was upgraded / promoted on the post of Dy. Commissioner, Animal Husbandry and on promotional post, posted at Jalna. On 13/10/2022, in view of the Revenue Division Allocation Rules,2021, the applicant submitted Bond (Bandhpatra) and representation to the respondents, thereby requested for giving posting in Amravati Division as less than 2 years remained for retirement. On 06/02/2023, the applicant made representation to the respondents to give posting on the vacant post at Yavatmal on the ground that his wife is suffering from severe kidney disease and as per the guidelines in the Government Notification dated 14/07/2021, he should be given posting at Yavatmal. The applicant's representation is not considered and now he is transferred / posted at Jalna. Therefore, the applicant has challenged the impugned transfer / posting order.

5. The respondent nos.1 to 3 have filed reply. In para-3, it is submitted that there was no vacant post at the time of posting, but in

para-5, it is submitted that one Dr. M.U. Gohatre retired on 01/12/2022 at Yavatmal and post at Yavatmal is vacant. In para-7, it is submitted that in the general transfers of 2023, the Civil Services Board recommended the transfer of the applicant at Yavatmal, but the Minister of Animal Husbandry not considered the proposal made by the Civil Services Board. The para-7 of the reply is reproduced as below –

“7. It is submitted that, during the year 2023-General Transfers the applicant had recommended to the vacant post of District Deputy commissioner of Animal Husbandry, Yavatmal by the Establishment Board, but the Competent Authority, i.e., the Hon’ble Minister of Animal Husbandry had not considered the Establishment Board recommendations and not given any reason etc.”

6. The Civil Services Board is established in every district to consider the grievances of the employees and also the Department. The report of the Civil Services Board is a material report for taking any action against the employee to transfer the employee as per the recommendation of the Civil Services Board. In the present matter, the Civil Services Board has recommended the transfer of applicant at Yavatmal, but the said recommendation was not allowed by the Minister, no reason is mentioned in the reply as to why the recommendation of the Civil Services Board was not allowed by the

Minister. The guidelines are given in the Govt. Notification dated 14/07/2021 in respect of promotion, some exceptions are given in Clause-7. The Clause-7 of the Govt. Notification dated 14/07/2021 is reproduced as under –

“ ७) महसूल विभाग वाटपातून सूट अनुज्ञेय असणारो प्रकरणे :-

(१) खालील परिस्थितीत अधिकार्यांना महसूल विभाग वाटपातून सूट अनुज्ञेय राहोल.

(क) जे अधिकारो स्वतः अपंग आहेत;

(ख) ज्या अधिकार्याचा जोडीदार किंवा त्याचे मूल मर्तिमंद आहे किंवा ज्या अधिकार्यांनी मर्तिमंद असलेल्या स्वतःच्या भावाचे किंवा बर्हिणीचे पालकत्व स्वीकारलेले आहे;

(ग) कायदेशीर कागदपत्राद्वारे एकल पालकत्व सिध्द झालेले अधिकारो;

(घ) विभागीय पदोन्नती समितीने ज्या तारखेस पदोन्नतीस पात्र असल्याची शिफारस केलो असेल त्या तारखेस ज्या अधिकार्यास सेवा निवृत्तीस तीन वर्ष किंवा त्यापेक्षा कमी कालावधी शिल्लक आहे.

(२) उपरोक्त पोर्टनियम (१) मध्ये नमूद परिस्थितीत, संबंधित प्रशासकोय विभाग, संबंधित अधिकार्यास त्याच्या सोयीचा महसूल विभाग उपरोक्त नमूद क्रम आणि रिक्त पदांची उपलब्धता विचारात घेऊन वाटप करेल. ”

7. The applicant is promoted and therefore he is exempted from the Revenue Division as per the Clause-7 of the Govt. Notification dated 14/07/2021. The transfer of the applicant was recommended to Yavatmal by the Civil Services Board. One post at Yavatmal is vacant and therefore it was for the respondents to post the applicant at Yavatmal. It appears that the impugned order of applicant for posting on promotion at Jalna is malafide, hence, it is

liable to be quashed and set aside. Instead of posting him at Yavatmal, he is posted at Jalna though the post is available at Yavatmal and there is specific recommendation of the Civil Services Board to give posting to the applicant at Yavatmal. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The posting on promotion order of applicant dated 2/2/2023 at Jalna (in respect of applicant only) is hereby quashed and set aside.
- (iii) The respondents are directed to give posting to the applicant at Yavatmal on the vacant post.
- (iv) No order as to costs.

Dated :- 20/06/2023.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

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 : 20/06/2023.