

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO. 635 OF 2015**

**DISTRICT : SOLAPUR**

- 1) Shri Nisarahmed Abdulrahiman )  
Kannur, Aged 56 Yrs, )  
Occ. Auditor Grade-II, )  
Having Office at District )  
Special Auditor, Class-I, )  
Co-operative Societies, )  
Sangli, Sangli Miraj Road, )  
Vijapur, Sangli, R/O.16 A, )  
Sirat Nagar, Civil Line, )  
Solapur. )
- 2) Shri Shreyas Shrikant Kulkarni, )  
Aged 28 Yrs, Occ. Auditor )  
Grade – II, Having Office at )  
IInd Special Auditor, Class-I )  
[Sugar], Sangli, Having Office at 203,)  
Administration Building, )  
Vijay Nagar, Sangli Miraj )  
Road, Sangli, R/O. Flat No.12, )  
Kalasuman Apt., Spurthi Chowk, )  
Vishrambag, Sangli. )

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- 3) Shri Vishalraj Madhukar Shinde, )  
 Aged 49 Yrs, Occ. Auditor Grade )  
 II, Having Office at Special )  
 Auditor, Class-I, )  
 Co-operative Societies [Marketing], )  
 Kolhapur, Shri Shahu Market Yard, )  
 Agriculture Produce Market )  
 Committee compound, )  
 Kolhapur R/O. 1031, Bootler )  
 Street, Camp Pune-1. )
- 4) Shri Jayprakash Adinath Pawal )  
 Aged 48 Yrs, Occ. Auditor )  
 Grade-II, Having Office at )  
 District Special Auditor, )  
 Class-I, Co-operative Societies, )  
 Sangli, A/P Tasgaon, Tal. Tasgaon, )  
 Dist. Sangli, R/O.A/P.Mangalwedha,) )  
 Narmada Park, Tal. Mangalwedha, )  
 Dist. Solapur. )
- 5) Shri Dhondiba Ramswami Manjeli, )  
 Aged 52 Yrs, Occ. Auditor Grade-II, )  
 Having Office at District Special )  
 Auditor, Class-I, Co-operative )  
 Societies, Sangli,203, Administration) )  
 Building, Vijay Nagar, Sangli Miraj )  
 Road, Sangli, R/O. 205/9, )  
 Raviwar Peth, Solapur-5. )

- 6) Shri Dinesh P. Sagar, )  
 Aged 29 Yrs, Occ. Auditor )  
 Grade-II, Having Office at )  
 Special Auditor, Class-II, )  
 Co-operative Societies )  
 [Consumer]. Kolhapur, )  
 Market Yard, Kolhapur, )  
 R/O. C-401, Swagat Enclave, )  
 Jambhulwadi Road, Ambegaon )  
 Khurd, Katraj, Pune-46. )  
 Address For Service of Notice:- )  
 As Above. )...**Applicants**

**VERSUS**

- 1) The Divisional Joint )  
 Registrar, Co-operative )  
 Societies [Audit], )  
 Kolhapur Division, Kolhapur, )  
 Having Office at behind )  
 Shahu Market Yard Post Office )  
 Kolhapur-5. )
- 2) The Commissioner for )  
 Co-operation and Registrar, )  
 Co-operative Societies, [M.S.] )  
 Pune, Having Office at )
- 3) The Divisional Joint )  
 Registrar, Co-operative )  
 Societies [Audit], Pune Division,) )  
 Pune, Having Office at 22, )  
 Mazda Building, Ambekar Road) )  
 Pune -1. )

4) The State of Maharashtra, )  
 Through Principal Secretary, )  
 Co-operation and Textile, )  
 Having Office at Mantralaya, )  
 Mumbai – 400 032. )....**Respondents**

Shri A.V. Bandiwadekar, learned Advocate for the Applicant.

Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal, Vice-Chairman**

**DATE : 21.04.2016**

### **ORDER**

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. This O.A. has been filed by the Applicants, who are working as Auditor, Grade – II working in Kolhapur Division of the Cooperation Department (Audit Wing). The Applicant nos.1 and 3 to 5 were promoted as Auditor, Grade – II, while the Applicant Nos. 2 and 6 were directly recruited. The Applicants are seeking transfer to Pune Division.

3. Learned Counsel for the Applicants argued that erstwhile Pune Division of the Audit Wing of the Cooperation Department was bifurcated to create Pune Division comprising of Pune and Solapur Districts and Kolhapur

Division comprising of Satara, Sangli and Kolhapur districts. The decision to bifurcate Pune division was taken in 2011. Earlier by G.R. dated 13.2.2001, Pune administrative division of the Cooperation Department was bifurcated into Pune and Kolhapur divisions. The Group 'C' and 'D' staff was given option to choose any of the divisions. However, while issuing G.R. dated 22.7.2011, bifurcating Pune Audit Division, it was not specifically provided that Class-III & Class IV staff will have choice to work in any one of the two divisions. The Respondent No.1, however, issued a circular on 1.2.2012, asking the District Special Auditor, Class-I in Kolhapur, Sangli and Satara, to collect options from Class-III and Class-IV employees regarding the division in which they would like to work after bifurcation. The present Applicants gave the options for Pune Division. Learned Counsel for the Applicants argued that though there are vacancies in Pune Division, the Respondent No.2 has not taken any action to absorb the Applicants in Pune Division. He has been considering request of persons working in other divisions for inter-divisional transfers. Learned Counsel for the Applicant prayed that the Respondent no.2 may be directed not to approve any inter-divisional transfers of Auditors-Grade-II, until all the Applicants are absorbed in Pune Division.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicants are seeking transfer from Kolhapur division to Pune division. Their request for such transfer would be considered as and when there are vacancies in Pune Division. The ratio of promotees and

direct recruits has to be maintained in each division. Similarly, it has to be ensured that the posts are filled as per 100 point roster. G.R. dated 22.7.2011 does not have any provision that on bifurcation of Pune Audit Division, Class-III & Class-IV staff will be given choice to work in any of the divisions.

5. It is seen that G.R. dated 13.2.2001, bifurcating Bombay, Pune and Aurangabad Administrative divisions and creating new Konkan, Kolhapur and later divisions has the following para, viz.

“ नवीन कार्यालयात आवश्यक असणारा वर्ग ३ व वर्ग ४ च्या कर्मचारी वर्ग अंतर्गत समायोजनाद्वारे उपलब्ध करून घेण्यात येईल. समायोजनाद्वारे वाटप करण्याचे अधिकार सहकार आयुक्त व निबंधक, सहकारी संस्था यांना देण्यात येत आहे. मात्र वाटप करताना, सेवा ज्येष्ठता व अन्य बाबीत कर्मचा-यांवर अन्याय होणार नाही हे त्यांना पहावे. या संदर्भात काही वाद उपस्थित झाल्यास त्याचा निर्णय देण्याचे अधिकार शासनाला राहतील.”

In the G.R. dated 22.7.2011, there are no such instructions. However, the Respondent No.1 issued circular on 1.2.2012 collecting options from Class-III & Class-IV employees working in Pune Division regarding their choice. A report was submitted by Divisional Joint Registrar (Audit), Pune on 20.5.2012 to the Respondent No.2, submitting a list of Class-III & Class – IV employees working in Kolhapur Division, who had opted for Pune Division and vice-versa. A total of 23 Auditors, Grade II including the Applicants have opted for transfer to Pune Division. The Respondent No.2 by letter dated 13.9.2012, instructed the Joint Registrar (Audit) Pune to fill four vacant posts from those who have opted for Pune Division. It was also stated that in future, the request of

other persons may be considered as and when vacancies arise in Pune division.

6. The Respondent No.2 has filed affidavit in reply dated 7.11.2015 and has stated that though there were no specific instructions in G.R. dated 22.7.2011 regarding internal absorption, in the interest of administrative convenience, instructions were given for submission of options. It is, therefore, clear that at least, some employees have been given transfers as per their choice. The Respondent no.2 has not withdrawn his instructions dated 13.9.2012. Obviously, the choice of the division on bifurcation of a division cannot be limited to a lucky few who could be accommodated immediately after bifurcation. The same facility has to be extended to other employees, who are similarly placed. However, this facility will be available only to those employees whose names appear in the report of Joint Registrar (Audit) Pune dated 20.5.2012 submitted to the Respondent No.2. It appears that there are many vacant posts in Pune Division, which can be filled by accommodating persons who have applied for transfer to Pune division. The Respondent No.2 is directed that the vacant posts in Pune Division shall be filled by transferring eligible Class-III & Class-IV employees, whose names figure in the above mentioned report dated 20.5.2012, subject to seniority. There will be no violation of ratio of promotion and nomination posts and roster will be adhered to. The process will continue till the list dated 20.05.2012 is exhausted.

7. This O.A. is disposed of with the above directions with no order as to costs.

Sd/-  
**(RAJIV AGARWAL)**  
**(VICE-CHAIRMAN)**

**Date : 21.04.2016**

**Place : Mumbai**

**Dictation taken by : SBA**

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