

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 939 OF 2017

DISTRICT : THANE

Smt Pushpalata Sunil Pardhi,)
Working as Senior Clerk, being)
Transferred from Desk No. 2-A,)
In the office of the below named Res.no. 1)
to General Hospital, Malwani, Malad,)
Mumbai. R/o: Rounak City,)
Near Adharwadi Jail, Kalyan [W],)
Dist-Thane.)...**Applicant**

Versus

1. The Joint Director,)
[Finance and Administration],)
Health Services, [M.S],)
Mumbai, having office at)
Aarogya Bhavan, in the campus)
St. Georges Hospital,)
P.D Mello Road, Mumbai 400 001.)
2. The Commissioner,)
Health Services [M.S],)
Mumbai.)
3. Shri P.A Aarawandekar,)
Assistant Superintendent,)
Working at Desk No. 2A in the)
Office of Respondent no. 1.)



4. The State of Maharashtra,)
 Through the Principal Secretary,)
 Public Health Department,)
 Having office at Mantralaya,)
 Mumbai 400 032.)
5. The Director of Health,)
 Services, [M.S], Mumbai.)
 Having office at Arogya Bhavan,)
 In the campus of St. Georges)
 Hospital, P.D Mello Road,)
 Mumbai 400 001.)...**Respondents**

Shri A.V Bandiwadekar, learned advocate for the Applicants.

Ms S.P Manchekar, learned Presenting Officer for the Respondents.

CORAM : Shri Justice A.H Joshi (Chairman)

RESERVED ON : 18.12.2017

PRONOUNCED ON : 21.12.2017

ORDER

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicants and Ms S.P Manchekar, learned Presenting Officer for the Respondents

2. At the outset, learned Advocate for the applicant states after taking instructions from the applicant as follows:-

Though initially the Original Application was filed challenging the order dated 18.8.2017, Exh. 'A' to the O.A, in view of the subsequent developments which too has been

challenged by the applicant, the applicant withdraws to forgo challenge to the order dated 18.8.2017.

3. Learned C.P.O prays for four weeks time for filing reply.
4. Learned Advocate for the applicant has urged that the Government has already sought time for filing affidavit in reply and has inordinately delayed hearing of present O.A, and therefore, request for further time may be rejected and the O.A may be heard finally without waiting for reply.
5. Learned Chief Presenting Officer states that because higher authorities have been added as Respondents and their reply is necessary, the Respondents need time for filing reply.
6. It was pointed to the learned C.P.O that role of higher authority is only limited to non-interference in the impugned order, and in so far as passing of the impugned order is concerned, higher authorities are in no way involved. Moreover, the plea of the State is that of denial and hence case need not wait for filing of affidavit in reply.
7. Learned C.P.O has then agreed for final hearing without failing of affidavit in reply.
8. Original Application was taken up for hearing, was heard and reserved for orders.
9. At the time of writing of the order, it has transpired that limited challenge involved in the Original Application is to the posting consequent upon order of promotion.



10. For the purpose of basing the challenge which was brought in by amendment, this Tribunal has perused the averments.

11. It is seen that paras 6.21, 6.22 and 6.23 are narrative.

12. In so far as para 6.24 is concerned, ground nos 6.25 and 6.27 are practically repeated in para nos 6.29 and 6.30, by changing paraphrasing.

13. It is seen that para 6.26 is ad verbatim replica in ground no. 6.31.

14. This replication of averments is nothing, but a product of fond habit of learned Advocate concerned of "copy and paste practice" proudly adopted and continued repeatedly. This habit and attitude reveals to be his usual technique or reckless habit of the concerned.

15. The approach and attitude of the learned advocate of unduly elongating the petition by causing a undue exertion to those who wish to file reply and creating a hurdle in the process of studying and even in the process of writing of judgment by the Tribunal. This deliberate act or recklessness as well as vexatious practice deserves to be deprecated with heavy hand.

16. It is well known that for the improper practice or mistake/negligence or even an overt act of the lawyer, litigant should not suffer. Therefore, while dealing with the applicant and advocate toward this improper act of repeating the pleadings, the present Original Application deserves to be dismissed with quantified cost of Rs. 5000/, with liberty to the applicant to file

fresh Original Application for the relief of challenging the posting on transfer.

17. In case fresh Original Application is filed, it shall be received by Registry only after applicant's depositing of cost of Rs 5000/- in the Registry of this Tribunal.

18. Original Application is dismissed with foregoing observations.



Sd/-

(A.H Joshi, J.)
Chairman

Place : Mumbai
Date : 21.12.2017
Dictation taken by : A.K. Nair.