

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO. 269 OF 2013

DIST.: AURANGABAD

Shri Govind s/o Manikrao Wankhede,
Age: 53 Yrs., Occu: Service (as
Deputy Engineer, Zilla Parishad
Works Sub-Division, Sillod),
R/o : 3, Chetna Apartments,
Near Hotel Tandoor, Bansilal
Nagar, Station Road, Aurangabad.

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APPLICANT

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Revenue & Forest Department,
M.S., Mantralaya, Mumbai-32.
2. The Secretary,
Public Works Department,
M.S. Mantralaya, Mumbai-32.
3. The Secretary,
Finance Department,
M.S., Mantralaya, Mumbai -32.
4. The Secretary,
General Administration
Department, M.S., Mantralaya,
Mumbai-32.

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RESPONDENTS

APPEARANCE : Shri A.S. Deshmukh, Learned Advocate
for the Applicant.

: Shri I.S. Thorat, Learned Presenting
Officer for the Respondents.

**CORAM: HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN (A)
AND
HON'BLE SHRI B.P. PATIL, MEMBER (J)**

DATE : 14.02.2017.

O R A L O R D E R

[Per- Hon'ble Shri Rajiv Agarwal, Vice-Chairman (A)]

1. Heard Learned Advocate Shri A.S. Deshmukh, for the Applicant and Shri I.S. Thorat, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the applicant who entered in service of the Public Works Unit attached to the Forest department, which was merged in the Public Works Department of Government of Maharashtra by virtue of G.R. dated 9.1.1990. The applicant in paragraph no. 6(vi) in O.A. has stated that this G.R. was issued after a committee appointed under the Chairmanship of Chief Engineer of Public Works Department to study the issue of work load, norms, staffing pattern and available man-power

of Public Works Units working in various departments of Government, with a view to merge them in Public Works Department submitted its report. The committee's report was considered by the Committee of Secretaries and ultimately with the approval of the Cabinet, G.R. dated 09.01.1990 was issued by the Finance Department of State Government. All the Public Works Units working under the various departments were merged in the Public Works Department. Inadvertently Public Works Unit of Forest department was not mentioned in the aforesaid G.R. and Corrigendum was issued by the Finance Department on 26.10.1990 including the Public Works Unit of Forest department also with the Public Works Department. Another G.R. came to be issued on 22.03.2005 by the Revenue and Forests Department of the Government of Maharashtra, which prescribed the modalities of such merger of Public Works Unit of the Forest department with the Public Works Department. This G.R. also mentions that it has been issued with the approval of the Finance Department.

3. Learned Advocate Shri A.S. Deshmukh, for the Applicant stated that the G.R. dated 4.3.2013 has been issued without the approval of the State Cabinet and even Finance Department has not been consulted. It is clear from paragraph no. 2 of the aforesaid G.R. Learned Advocate Shri A.S. Deshmukh, for the Applicant stated that this G.R. has been issued in violation of Rules of business of Government of Maharashtra. In any case, Secretaries of Forest and Public Works Department have no authority to overturn the policy decision taken by the State Cabinet.

4. Learned P.O. stated that the G.R. dated 4.3.2013 has been issued in view of the administrative difficulties faced by the decision which was taken by the G.R. dated 22.03.2005 and the same has been cancelled. He stated that there is nothing wrong in this decision as it has been decided to demerge the Public Works Unit of Forest Department from the Public Works Department, in public interest.

5. We find that in para 6(vi) of the O.A. the applicant has clearly stated that the G.R. dated 09.01.1990 was

issued after the matter was placed before the State Cabinet and the Cabinet approved the proposal. In the affidavit in reply filed on behalf of the respondent nos. 1 & 2 on 9.10.2013, this fact has not been denied. In fact, para 6 of the affidavit in reply mentions that the respondents have no comments in the matter. In paragraph no. 7 of the O.A. the applicant has stated that the G.R. dated 9.1.1990 was issued with approval of the Government and Cabinet while G.R. dated 4.3.2013 has been issued in violation of the Rules of business of the State Government. In paragraph no. 12 of the affidavit in reply the respondents have denied the contentions of paragraph no. 7 of the O.A. However, it is admitted that the G.R. dated 4.3.2013 has been issued only after the matter was discussed by Secretaries of Forest and Public Works Departments. There is no mention in the G.R. that the Finance Department was consulted. Considering all these facts, we are of the opinion that the G.R. dated 4.3.2013 has not been issued in accordance with the Rules of Business of Government of Maharashtra. G.R. dated 9.01.1990 was issued as a policy decision with the approval of the State Government and Public Works Units of various

departments of Government of Maharashtra were merged with the Public Works Department. Obviously, demerger of Public Works Unit in Forest department amounts to reversal of that policy decision and approval of the authority, which has taken the original decision in that matter is essential. If the G.R. dated 4.3.2013 was to be issued in public interest due to difficulties in implementation of earlier Cabinet policy decision, it was necessary to place the matter before the State Cabinet as per the Rules of procedure and only after approval of the State Cabinet such G.R. could have been issued.

6. Considering the aforesaid facts and circumstances of the case, G.R. dated 4.3.2013 is hereby quashed and set aside. This O.A. is allowed accordingly with no order as to costs.

MEMBER (J)

Kpb/DB OA No 269 of 2013 RA 2017

VICE CHAIRMAN (A)