

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI
ORIGINAL APPLICATION NO.12 OF 2017**

DISTRICT : Pune

SUB : Reversion

Shri Mustafa Abdul Razzak Shaikh)
Age 47 years, working as Assistant)
Sub Inspector, SRPF Group 5,)
Daund, Dist. Pune.)
R/at 928, Kasba Peth, Pune 11.)...**Applicant**

Versus

1. The Special Inspector General of)
Police, Motor Transport Department)
Pune, O/at Aundh, Pune 7.)
2. The Commandant, SRPF, Group 11,))
Navi Mumbai, O/at Camp Balegaon)
Mumbra via Vaklan Post,)
Thane 400 612.)
3. The Director General and Inspector)
General of Police (M.S.), Mumbai.)
having office at Old Council Hall,)
Shahid Bhagatsingh Marg,)
Mumbai 400 039.) ...**Respondents**

Shri Arvind V. Bandiwadekar, Advocate for Applicants.

Smt. Archana B. K., Presenting Officer for Respondents.

**CORAM : SHRI A.P. KURHEKAR, MEMBER-J
SHRI DEBASHISH CHAKRABARTY, MEMBER -A**

DATE : 05.07.2023.

PER : SHRI A.P. KURHEKAR, MEMBER-J

JUDGMENT

The Applicant has challenged the order of reversion dated 09.02.2016 issued by Respondent No.1 - Special Inspector General of Police, Motor Transport Dept., Pune thereby reverting him from the post of PSI to ASI on the ground of initiation of Departmental Enquiry (D.E.)

invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

2. Following are the facts giving rise to this O.A.

(A) While the Applicant was serving as ASI, Respondent No.1- Special Inspector General of Police, Motor Transport Dept., Pune promoted the Applicant by order dated 03.08.2013 initially for 364 days as ad-hoc promotion.

(B) The Applicant's promotion to the post of PSI was thereafter extended from time to time and he was discharging duties of PSI.

(C) Suddenly Respondent No.1 by order dated 09.02.2016 directed for reversion of the Applicant on the ground that D.E. is pending against the Applicant. He was accordingly reverted to the post of ASI and posted at Daund. It is on the basis of order dated 09.02.2016, the Respondent No.2 - The Commandant, SRPF, Group 11, Navi Mumbai issued communication dated 11.02.2016 thereby relieving the Applicant to join the post after reversion as ASI at Daund.

3. It is on the above background, the Applicant has challenged the order dated 09.02.2016 passed by the Respondent No.1 *inter-alia* contending that it is stigmatic and without following principle of natural justice rendering it, totally unsustainable in law.

4. Heard Shri Arvind V. Bandiwadekar, learned Counsel for the Applicant and Smt. Archana B. K., learned Presenting Officer for the Respondents.

5. In view of submissions, the issue posed for consideration is whether impugned order of reversion dated 09.02.2016 is legally sustainable and in our considered opinion, the answer is in emphatic negative.

6. True, by promotion order dated 03.08.2013, the Applicant was promoted on ad-hoc promotion for 364 days but the fact remains that he was continued on promotional post by extending the period till impugned order of reversion passed on 09.02.2016. Thus, for nearabout three years, the Applicant was working on the post of PSI though it was ad-hoc promotion.

7. Now, let us see the reason for reversion by order dated 09.02.2016. All that the reason for reversion is pendency of D.E. Material to note that D.E. was initiated on 28.10.2015 for certain misconduct allegedly committed in the month of July, 2015. Thus, the promotion to the post of PSI was in pursuance of order dated 03.08.2013 and thereafter Applicant allegedly committed certain misconduct in 2015 and that was the reason for reversion to the post of ASI.

8. All that learned P.O. tried to contend that promotion was ad-hoc and, therefore, the order of reversion cannot be faulted with. This contention is totally unacceptable and misconceived. Once, the Applicant is promoted though ad-hoc mere initiation of D.E. cannot be the ground for reversion in law. The order of reversion is stigmatic and such order could not have been passed without completion of D.E. It is in D.E. only initiated in accordance to law such punishment of reversion could be imposed. It cannot be termed innocuous order. It has evil consequences and such order without following due process of law is liable to be quashed. As such, we have no hesitation to conclude that the order of reversion is stigmatic and totally unsustainable.

9. That apart, material to note D.E. was later completed resulting into order of withholding of increments for two years without cumulative effect by order dated 02.12.2016. As such, it was not a case of

punishment of reversion which was already inflicted without waiting for result of D.E.

10. Furthermore, as rightly pointed out by learned Counsel for the Applicant before issuance of order of reversion even no opportunity of hearing in observance of principle of natural justice was given to the Applicant. He was reverted abruptly solely on the ground of pendency of D.E. During pendency of D.E. there could be suspension if it warrants but not reversion.

11. Needless to mention, where the order ensues evil consequences, the employee cannot be treated in such a manner by reverting him to the lower post. This course of action adopted by Respondent No.1 is totally illegal and arbitrary. Learned P.O. could not point out any provision in support of her contention that where promotion is on ad-hoc basis such employee can be reverted only on the ground of pendency of D.E. Indeed, once the Applicant resumes duties on promotional post though ad-hoc and worked for three years on promotional post, he cannot be subjected to punishment of reversion only on the ground of initiation of D.E.

12. The totality of aforesaid discussion leads us to conclude that impugned order of reversion is stigmatic, arbitrary and totally unsustainable in law and liable to be quashed. Hence, the following order :-

ORDER

- (A) The Original Application is allowed.
- (B) Impugned order of reversion dated 09.02.2016 is quashed and set aside.
- (C) The Respondents are directed to reinstate the Applicant on the post he was holding before his reversion within a month from today.

- (D) The claim made by learned Counsel for the Applicant for back-wages for the post of promotional post is rejected.
- (E) No order as to costs.

Sd/-

(Debashish Chakrabarty)
Member (A)

Sd/-

(A.P. Kurhekar)
Member(J)

Place : Mumbai

Date : 05.07.2023

Dictation taken by : Vaishali S. Mane

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