

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.1231 OF 2022**

**DISTRICT : MUMBAI**

**SUB : TRANSFER**

1. Shri Anil Rambhau Sonawane )  
Age : 52 Yrs, Occu.: Assistant )  
Director (MSP), office of Financial )  
Advisor and Deputy Secretary, G.T. )  
Hospital Compound, Fort, Mumbai )  
400 032, R/at 203, S. M. )  
Chandrabhaga Sector -21, Ulwe, )  
Navi Mumbai 410 206. )...**Applicants**

**Versus**

1. The Government of Maharashtra. )  
Through Principal Secretary, )  
Food, Civil Supply and Consumer )  
Protection Department, Mantralaya, )  
Extension, Mumbai 400 032. )
2. The Government of Maharashtra, )  
Through Principal Secretary, )  
Finance Department, Mantralaya, )  
Mumbai 400 032. )...**Respondents**

**Shri M. D. Lonkar, Advocate for Applicant.**

**Smt. Kranti Gaikwad, Presenting Officer for Respondents.**

**CORAM : A.P. KURHEKAR, MEMBER-J**

**DATE : 02.05.2023**

**JUDGMENT**

1. Heard Shri M. D. Lonkar, learned Counsel for the Applicant and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents at the stage of admission finally.

2. The issue posed for consideration in the present case is whether the impugned order dated 05.12.2022 issued by Respondent No.1 Food, Civil Supply and Consumer Protection Department thereby relieving the Applicant unilaterally is valid and legal.

3. Indisputably, the Applicant's parent department is Finance Department. While Applicant was serving in the cadre of Account Officer, he was temporarily promoted by order dated 17.11.2021 issued by Finance Department and posted as Assistant Director, Financial Advisor and Deputy Secretary in the office of Food, Civil Supply and Consumer Protection Department, Mumbai. Accordingly, the Applicant joined the said post in Food, Civil Supply Department on 01.12.2021. The posting of the Applicant in Food, Civil Supply Department was made in view of the policy decision taken by the Government by G.R. dated 08.02.2018 whereby the officials serving in Finance Department are being posted in various other departments to supervise the finance and related account issues.

4. However, abruptly the Respondent No.2 by order dated 05.12.2022 unilaterally relieved the Applicant in view of complaints received against him while he was functioning in Food, Civil Supply Department which is impugned in the present O.A.

5. Learned Counsel for the Applicant sought to assail the legality and validity of order dated 05.12.2022 *inter-alia* contending that in terms of G.R. dated 08.02.2018 which was again reiterated by Circular dated 02.12.2022 consultation and approval of Finance Department was condition precedent without which Applicant ought not to have been relieved by Food, Civil Supply and Consumer Protection Department. He further submits that before relieving, the Applicant was not served with show cause notice and no opportunity of hearing was given to him which is in breach of principle of natural justice and on that account also impugned order dated 05.12.2022 is unsustainable in law.

6. Learned Counsel for the Applicant has also raised grievance of non-payment of pay and allowances of the Applicant though he joined the Finance Department after he was relieved by Food, Civil Supply & Consumer Protection Department. In this behalf, he referred to office order dated 25.01.2023 issued by Finance Department which shows that the Applicant reported on duty on 24.01.2023 and he was allowed to join.

7. Per contra, Smt. Kranti Gaikwad, learned Presenting Officer sought to contend that in view of serious complaints and dereliction in duties while working in Food, Civil Supply & Consumer Protection Department immediate repatriation to parent department is found necessitated and, therefore, he was relieved on 05.12.2022. She further submits that by order dated 17.11.2022 Applicant was temporarily promoted and posted with Food, Civil Supply & Consumer Protection Department and he has no vested right much less legally enforceable right to continue in Food, Civil Supply & Consumer Protection Department.

8. When specific query has been raised by the Tribunal to learned P.O. as to whether before issuance of relieving order dated 05.12.2022, there was any consultation or approval with the Finance Department, she fairly concedes that no such consultation or approval is there. She, therefore, submits that liberty be given to Food, Civil Supply & Consumer Protection Department to take remedial measures with consultation of Finance Department.

9. There is no denying that Applicant's parent department is Finance Department where he was serving as Account Officer and by order dated 17.11.2022, he was temporarily promoted and posted as Assistant Director, Financial Advisor and Deputy Secretary with Food, Civil Supply and Consumer Protection Department, Mumbai. The said posting was given in view of Government policy as reflected by G.R. dated 08.02.2018 (page 32 of PB) whereby officials from Finance Department are posted in

other department to look after financial aspects and accounts efficiently. These officers were to work there as representatives of Finance Department to see that there is no breach of financial rules. Thus, it is in terms of these decisions, the Applicant was posted with Food, Civil Supply and Consumer Protection Department. Even if, it was temporary promotion and Applicant has no legally vested right to continue on the said post, the issue involved is about unilateral repatriation by Food, Civil Supply and Consumer Protection Department.

10. At this juncture, it would be apposite to see relevant contents, terms and conditions as mentioned in G.R. dated 08.02.2018.

- "३. सदरचे अधिकारी हे वित्त विभागाचे प्रतिनिधी म्हणून संबंधीत संस्थेचे काम पाहतील. हे अधिकारी संबंधीत संस्थेमध्ये वित्तीय नियमाचे पालन होत आहे किंवा नाही यावर देखरेख ठेवतील.
४. या अधिका-यांनी संबंधीत संस्थेचा लेखाजोखा त्यांच्या प्रशासकीय विभागामार्फत वित्त विभागास सादर करावा.
५. या अधिका-यांच्या कामकाजाबाबत, पदस्थापना, बदलीबाबत काही प्रश्न उपस्थित झाल्यास संबंधीत विभागांनी वित्त विभागाशी सल्लामसलत करावी. वित्त विभागाच्या मान्यतेशिवाय या अधिका-यांना परस्पर कार्यमुक्त करता येणार नाही."

11. That apart, the Finance Department by Circular dated 08.02.2022 (page 36 of PB) again reiterates the terms and conditions mentioned in G.R. dated 08.02.2018 and directed to ensure its scrupulous adherence following conditions from Circular dated 02.12.2022 which are as under :-

" महाराष्ट्र वित्त व लेखा सेवेतील अधिका-यांना एकतर्फी कार्यमुक्त करणे, हजर करून न घेणे, विनिर्दिष्ट अधिका-यांची परस्पर पदावर नेमणूक करणे, महाराष्ट्र वित्त व लेखा सेवेतील अधिका-यांऐवजी इतर सेवेतील अधिका-यांची नियुक्ती प्रमुख वित्तीय अधिकारी म्हणून करण्याकडे अनेक विभागांचा कल दिसून येत असल्याने शासनाचे दिनांक ८ फेब्रुवारी, २०१८ च्या शासन निर्णयान्वये शासनाच्या विविध विभागामध्ये महाराष्ट्र वित्त व लेखा सेवेतील अधिका-यांच्या नियुक्तीचे सर्वकप धोरण निश्चित केलेले आहे. तथापि, याबाबतचे अनुपालन होत नसल्याचे दिसून आलेले आहे.

उपरोक्त बाबींच्या अनुषंगाने खालीलप्रमाणे सूचना देण्यात येत आहेत.

- अ) वित्त विभागाच्या दिनांक ०८ फेब्रुवारी २०१८ च्या शासन निर्णयान्वये दिलेल्या सूचनांचे काटेकोरपणे पालन करण्यात यावे.
- आ) प्रशासकीय विभागाने/महामंडळ/स्वायत्त संस्था यांनी पदाची मागणी पदाच्या मंजूर आकृतीबंधानुसारच करावी.
- इ) प्रशासकीय विभाग, जिल्हा परिषदा, महानगरपालिका, नगरपरिषदा, विद्यापीठे, महामंडळे इ. आस्थापनावर पदांच्या मंजूर आकृतीबंधानुसार वित्त विभागाकडून अधिकारी उपलब्ध करून देण्यात असल्याने त्या विभागाकडून विनिर्दिष्ट अधिका-यांकरिता पदे परस्पर उन्नत/अवनत करण्यात येऊ नयेत.
- ई) महाराष्ट्र वित्त व लेखा सेवेतील अधिका-यांच्या बदलीबाबतचा प्रस्ताव विभागाने परस्पर वित्त विभागामार्फत न तपासता सरळ मा.मुख्यमंत्री /मा.राज्यपाल महोदयांना सादर करणे योग्य नाही.’’

12. As such, it was imperative on the part of Food, Civil Supply & Consumer Protection Department to consult with Finance Department before relieving the Applicant. There is specific stipulation in the form of embargo on the part of Food, Civil Supply & Consumer Protection Department that they should not forward the proposal directly to the authority without consultation of Finance Department whenever there is issue of transfer of such officials of Finance Department who are working with Food and Civil Supply and Consumer Protection Department.

13. In present case, the Food, Civil Supply & Consumer Protection Department unilaterally relieved the Applicant with the approval of Minister in charge of the said department without there being any consultation or approval of Finance Department as mandated in terms of G.R. dated 08.02.2018 and reiterated in Circular dated 02.12.2022. Once the Government has formulated the policy setting out terms and conditions and allocation of officials of Finance Department to another department, it needs to be adhered strictly. Learned P.O. could not point out any other G.R. or Rule contrary to G.R. dated 08.02.2018 to

substantiate that there could be unilateral repatriation without consultation of Finance Department.

14. As such, even assuming for a sake of moment that there were serious charges of dereliction of duties against the Applicant and his transfer or repatriation was found necessitated, in that event also, he could not have been relieved unilaterally in view of specific terms and conditions mentioned in G.R. dated 08.02.2018 and reiterated in Circular dated 02.12.2022.

15. The worst part is that even after passing impugned order dated 05.12.2022, there is no such consultation or approval by the Finance Department as *ex post facto* sanctioned to impugned action.

16. In this view of the matter, inevitable conclusion is that impugned order dated 05.12.2022 unilaterally relieving the Applicant issued by Food, Civil Supply & Consumer Protection Department (Respondent No.1) is arbitrary and totally unsustainable in law. It is, therefore, liable to be quashed and set aside. The Respondents are however at liberty to take remedial measures afresh, if they so desire in accordance to law. Hence the following order :-

**ORDER**

- (A) Original Application is allowed.
- (B) Impugned order dated 05.12.2022 is quashed and set aside.
- (C) The Applicant be reposted on the post of Assistant Director, Financial Advisor and Deputy Secretary, Food, Civil Supply & Consumer Protection Department, Mumbai within a week.

- (D) The Respondent No.2 - Finance Department is directed to ensure the payment of pay and allowances to the Applicant in accordance to rules within two weeks from today.
- (E) No order as to costs.

**Sd/-**  
**(A.P. KURHEKAR)**  
**Member-J**

Place : Mumbai

Date : 02.05.2023

Dictation taken by : V.S. Mane

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