

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**ORIGINAL APPLICATION NO.237 OF 2020**

**(Subject : Transfer)**

Shri M.K. Pendhari )  
Additional Commissioner, )  
Navi Mumbai, Municipal Corporation, )  
Konkan Bhavan, Navi Mumbai. )  
Residing at Kokan Bhavan, Navi Mumbai. ) **.. Applicant**

**Versus**

1) Government of Maharashtra, )  
Through its Secretary, )  
Urban Development Department, )  
Mantralaya, Mumbai 400 032. )

2) Government of Maharashtra, )  
Through its Secretary, Finance Department, )  
Mantralaya, Mumbai 400 032 )

3) Shri Sandip Kakade, )  
Municipal Commissioner, Chandrapur, )  
Municipal Corporation, Chandrapur. ) **..Respondents**

Shri M.D. Lonkar, learned Advocate for the Applicant.

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

CORAM : SHRI A.P. KURHEKAR, MEMBER(J)

DATE : 12.05.2020.

**ORDER**

1) Heard Shri M.D. Lonkar, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondent.

2) Applicant has challenged the order dated 04.05.2020, whereby his deputation was cancelled and he has been deputed to the Finance Department.

3) Learned Advocate Shri M.D. Lonkar for the Applicant sought to contend that by order dated 03.11.2018, the Applicant was deputed as Additional Commissioner, Municipal Corporation, Navi Mumbai for two years, but abruptly his deputation has

been cancelled by the impugned order without any valid reasons. According to him unless there is move by lending Department, deputation cannot be cancelled in terms of instructions issued by G.R. dated 17.12.2016. He therefore, submits that only to accommodate Respondent No.3, the Applicant has been shifted from the post of Additional Commissioner, Navi Mumbai.

4) Par Contra, learned C.P.O. Ms. S.P. Manchekar for the Respondents submits that the Applicant was deputed on his own request for the period of two years subject to specific condition that the Government reserved its authority to recall him in public interest. She, further, submits that in view of containment of COVID-19 pandemic situation the services of the Respondent No.3 were required as the Additional Commissioner, Municipal Corporation, Navi Mumbai and accordingly with the approval of Hon'ble Chief Minister the impugned order has been passed.

5) The perusal of file tendered by learned C.P.O. for the Respondents indicates that it is on the recommendation of Shri Rajpurohit, then MLA, the Applicant was deputed as Additional Municipal Commissioner, Navi Mumbai for two years. The letter dated 05.02.2018 written by Shri Rajpurohit addressed to then Hon'ble Chief Minister indicates that the Applicant was in need of posting at Navi Mumbai for personal reasons and accordingly he was accommodated by the issuance of deputation order. Suffice to say the Applicant was on deputation for two years and he has no vested right to continue on the same post in view of the specific mention in the appointment order that the Government reserved his right to recall his deputation order at any point of time, if his services are required in public interest.

6) Perusal of file further indicates that the matter of posting of Respondent No.3 was placed before the Civil Services Board which recommended transfer of Respondent No.3 as Additional Commissioner, Kalyan-Dombivali, Municipal Corporation. However, when the file was placed before the Hon'ble Minister, the changes were made and Respondent No.3 was ordered to be posted as Additional Commissioner, Municipal Corporation, Navi Mumbai in place of Applicant who was there on deputation. It was thereafter approved by the Hon'ble Chief Minister on the ground that the changes are

required for containment of COVID-19 pandemic situation and to implement the Government decision.

7) Thus, even if the applicant has not completed two years period of deputation, his deputation, prima facie, seems to have been curtailed in public interest as the posting of Respondent No.3 was necessitated in the place of Applicant.

8) In view of above, the decision taken by the Government to recall the deputation of the Applicant is prima facie, taken to tackle with the COVID-19 pandemic situation. Therefore, the administrative decision at this stage need not be interfered with.

9) In view of cancellation of deputation the Applicant is not left without posting. It is therefore, desirable that Respondent No.2 should pass further appropriate order of the posting of the Applicant without any delay.

10) Issue notice before admission returnable on 09.06.2020.

11) Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

12) Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of Original Application. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

13) This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

14) The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

15) In case notice is not collected within seven days or service report on affidavit is not filed three days before returnable date, Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

16) At this stage, learned Advocate Shri M.D. Lonkar for the Applicant on instructions from the Applicant who is present before the Tribunal submits that the Applicant does not want to proceed with the O.A. and requested for permission to withdraw the O.A.

17) Permission granted to withdraw the O.A. In view of above, O.A. is disposed of without any costs.

Sd/-

**(A.P. KURHEKAR)**  
**MEMBER (J)**

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