

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.244 OF 2023**

**DISTRICT : MUMBAI**

**Sub.:- Posting**

Shri Rajkumar B. Dahiphale. )  
Age : 44 Yrs, Senior Clerk in the Office of )  
Collector of Stamps, Mumbai having )  
Office at 310, 3<sup>rd</sup> Floor, Old Customs )  
Building, S.B. Road, Mumbai and residing )  
at A-607, Ganesh Pride, Plot No.4, )  
Sector – 5 A, Karanjade, Panvel – 410 206.)...**Applicant**

**Versus**

1. The State of Maharashtra. )  
Through Additional Chief Secretary, )  
(Revenue & Stamps), Revenue & )  
Forest Department, Mantralaya, )  
Mumbai – 400 032. )
2. Inspector General of Registration and )  
Stamps, New Administrative Building )  
In front of Council Hall, Pune – 1. )
3. Shri Javed A. Shaikh (128), )  
Jt. Sub-Registrar, Kurla No.5, )  
Mumbai Suburban. )
4. Smt. Chaya P. Bansod (135), )  
Jt. Sub-Registrar, Kurla No.-3, M.S. )
5. Shri Sunil G. Katkar (306), )  
Jt. Sub-Registrar, Mumbai City No.1.)
6. Shri Vijay E. Chikhale (147), )  
Jt. Sub-Registrar, Andheri No.1, )  
Mumbai. )
7. Smt. Deepa A. Gujare (341), )

- Jt. Sub-Registrar, Kurla No.4, )  
Mumbai Suburban. )
8. Shri Ravikumar A. Panjol (256), )  
Jt. Sub-Registrar, Borivali No.5, )  
Mumbai. )
9. Shri Pundalik S. Sawant (112), )  
Jt. Sub-Registrar, Borivali No.4, )  
Mumbai. )
10. Shri Dinkar A. Kekam (329), )  
Jt. Sub-Registrar, Borivali No.3, )  
Mumbai. )
11. Shri Manoj G. Wagh (161), )  
Jt. Sub-Registrar, Borivali No.1, )  
Mumbai. )...**Respondents**

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

**Smt. A.B. Kololgi, Presenting Officer for Respondent Nos.1 and 2.  
Respondent Nos.3 to 11 absent.**

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

**DATE : 20.07.2023**

### **JUDGMENT**

1. The Applicant has challenged the order dated 14.02.2023 issued by Respondent No.2 – Inspector General of Registration of Stamps to the extent of his posting on promotion as a Senior Clerk.

2. While Applicant was serving as Junior Clerk on the establishment of Collector of Stamps, Fort, Mumbai, he was in the zone of consideration for promotion to the post of Senior Clerk. Accordingly, Respondent No.2 by order dated 08.12.2022 promoted him to the post of Senior Clerk amongst other candidates. By the said order, 315 Junior Clerks were promoted to the post of Senior Clerk. Thereafter, Department called options of postings from the candidates promoted to the post of Senior Clerk. In pursuance of it, the Applicant gave 10 options and all are of

the Office of Assistant Registrar of various places in Mumbai. Matter was placed before Civil Services Board which recommended posting to the Applicant in General Stamps Office, Mumbai. Consequently, Respondent No.2 issued posting order dated 14.02.2023 thereby posting the Applicant in General Stamps Office, Mumbai. The Applicant has challenged the posting order to the extent of posting only.

3. Shri M.D. Lonkar, learned Advocate for the Applicant sought to assail the impugned order dated 14.02.2023 solely on the ground that the Applicant though at Serial No.23 in seniority list, his seniority position was not considered and Respondent Nos.3 to 11 who were junior to him in gradation list were given the posting which was sought by him. He made representation on 17.02.2023, but it was not responded. Thus, according to the learned Advocate for the Applicant, the seniority of the Applicant ought to have been considered while giving posting and Applicant is subjected to unfair treatment.

4. Per contra, Smt. A.B. Kololgi, learned Presenting Officer sought to justify the impugned order *inter-alia* contending that Applicant on promotion have no right much less legally enforceable to claim particular post and it falls within the domain of the employer. She further submits that the Applicant has not joined as per promotion order dated 14.02.2023 and Department intends to take appropriate action against him.

5. In view of submissions, the small issue arises for consideration is as to whether Applicant is entitled to insist for the posting as per the options given by him.

6. This is not a case challenging the posting on transfer, but it pertain to the challenge to the posting on promotion. There is basic difference between posting on transfer and posting on promotion. Indeed, even in case of transfer also, Government servant cannot claim a

particular post or tenure as of right. Transfer being an incidence of Government service, it is for the employer to see whether to post a Government servant. However, at the same time, transfers being governed by the provisions of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005' and G.R. dated 09.04.2018, it has to be in consonance as per the provisions mentioned therein. Suffice to say, the provisions of 'Transfer Act 2005' and G.R. dated 09.04.2018 cannot be applied to the posting on promotion. On promotion, it is for the employer to determine the appropriate posting amongst the candidates, having regard to the administrative requirements.

7. During the course of hearing, specific query was raised to the learned Advocate for the Applicant as to whether there is any specific rule or provision mandating consideration of options while giving posting on promotion. He fairly concedes that there is no such specific provision or rule to that effect. However, he sought to contend that Applicant being senior in gradation list, in fairness, his options ought to have been considered before giving those options/places to the juniors. True, though Applicant is at Serial No.23 at gradation list, Respondent Nos.3 to 11 who are quite below him were given options which were sought by the Applicant. However, admittedly, there is no such rule or provision mandating that the posting should be given considering the placement in seniority.

8. True, no reasons for not considering options given by the Applicant are forthcoming. But at the same time, posting on transfer being purely administrative in nature, it is for the administration to see suitability and requirement of a candidate at a particular place. The Civil Services Board has recommended posting at General Stamps Office, Fort, Mumbai and accordingly, Applicant was given the posting. Notably, before promotion, the Applicant was working in the Office of Collector of Stamps, Mumbai and on promotion, he was given posting at General

Stamps Office, Mumbai which is located in the same premises at Fort, Mumbai. Indeed, Applicant first ought to have joined to maintain discipline and then to challenge the posting. Be that as it may, this is not a case of any kind of hardship or inconvenience because of not getting posting as per the options.

9. Suffice to say, Applicant cannot ask for particular place on promotion as of right, much less legally enforceable right. Needless to mention, in such type of matters where there is no breach of any express provisions of law, the interference by the Tribunal is uncalled for. It is only in a case where administrative orders are totally arbitrary, *malafide* or in contravention of specific provisions of law, in that event only, the Tribunal can interfere within its powers of judicial review. In the present case, no such case is made out.

10. For aforesaid reasons, I see no merit in the O.A. and challenge to the order dated 14.02.2023 about posting is devoid of any merit. Hence, the order.

### **ORDER**

The Original Application is dismissed with no order as to costs.

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

Mumbai  
Date : 20.07.2023  
Dictation taken by :  
S.K. Wamanse.

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