

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**ORIGINAL APPLICATION NO.337 OF 2023 WITH
ORIGINAL APPLICATION NO.338 OF 2023**

DISTRICT : PUNE

SUB : TRANSFER

ORIGINAL APPLICATION NO.337 OF 2023

Smt. Neela Ravindra Shinde)
Age : 46 Yrs, Occ : Crafts Instructor)
Cosmetology, R/at Sanskruti)
Darshan, 'A' Wing, Flat No.202,)
Kasarwadi, Pune 34.)...**Applicant**

Versus

1. The Director, Vocational Education)
& Training, 3, Mahapalika Rd.,)
Mumbai 400 001.)
2. The Joint Director, Vocational Educ.)
And Training, Regional Office, Ghole)
Road, Pune 411005.)
3. Smt. Sarla Prakash Manohar-Shinde)
Crafs Instructor Cosmetology,)
Government Industrial Training,)
Institute Building, Aundh, Pune 7.)...**Respondents**

ORIGINAL APPLICATION NO.338 OF 2023

Smt. Vijaya C. Padole)
Age : 52 Yrs, Occ : Crafts Instructor)
Cosmetology, R/at A 103, Suyash)
Nisarg, Satav Nagar, Handewadi Rd.)
Hadapsar, Pune.)...**Applicant**

Versus

1. The Director, Vocational Education)
& Training, 3, Mahapalika Rd.,)
Mumbai 400 001.)
2. The Joint Director, Vocational Educ.)
And Training, Regional Office, Ghole)
Road, Pune 411005.)
3. Smt. Sarla Prakash Manohar-Shinde)
Crafs Instructor Cosmetology,)
Government Industrial Training,)
Institute Building, Aundh, Pune 7.)...**Respondents**

Shri K. R. Jagdale, learned Advocate for Applicants.

Shri A. J. Chougule, learned Presenting Officer for Respondents.

Smt. P. Sonawane, learned Advocate for Respondent No.3

CORAM : Shri Debashish Chakrabarty, Member (A)

RESEVED ON : 11.10.2023

PRONOUNCED ON : 13.12.2023

JUDGMENT

1. The Applicants who are Crafts Instructor (Basic Cosmetology) have invoked the provisions of Section 19 of The Administrative Tribunal Act, 1985 to challenge the Transfer Order dated 16.02.2023 by which Respondent No.3 has been posted in I.T.I. Aundh, Tahsil Pune, District Pune by overlooking their repeated requests to Director of Vocational Education and Training, Mumbai. The Applicants have sought transfer to the post of Crafts Instructor (Basic Cosmetology) either at (i) I.T.I. Aundh, Tahsil Pune, District Pune or (ii) I.T.I. Varvand, Taluka Daund, District Pune or (iii) ITI Wagholi, Tahsil Haveli, District, Pune.

2. The learned Advocate for Applicants stated that Applicant in O.A.No.337 of 2023 has been working as Crafts Instructor (Basic Cosmetology) at I.T.I. Wagholi, Tahsil Haveli, District Pune since 27.12.2016. Earlier she has worked on this post at (i) I.T.I. Mandrup, Tahsil South Solapur, District Solapur (ii) I.T.I. Varvand, Tahsil Daund, District Pune (iii) I.T.I. Satara, Tahsil Satara, District Satara. The learned Advocate for Applicant further stated that Applicant in O.A. No.338 of 2023 has been working as Crafts Instructor (Basic Cosmetology) at I.T.I. Varvand, Tahsil Daund District Pune since 30.05.2016. Earlier she has worked on this post at (i) ITI Walva, Tahsil Islampur, District Sangli (ii) ITI Aundh, Tahsil Pune, District Pune.

3. The learned Advocate for the Applicants argued that the reason why they have not got opportunity to work on the post of Crafts Instructor (Basic Cosmetology) at I.T.I. Aundh, Tahsil Pune, District Pune for inordinately long period of time was because Crafts Instructors (Basic Cosmetology) by name (i) Smt S.P.M. Shinde, (ii) Smt. S.M. Kundale have been inter-se shuffled around for more than 15 years between (a) I.T.I. Aundh, District Pune and (ii) I.T.I. Kolhapur, District Kolhapur not only by mutual convenience but with undue benevolence being shown by Director of Vocational Education and Training, Mumbai and Joint Director, Vocational Education & Training, Pune who had given complete go-by to implementation of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005.

4. The learned Advocate of the Applicant stated that Smt. S.P.M. Shinde, Crafts Instructor (Basic Cosmetology) who is Respondent No.3 in both O.A.No.337 of 2023 and O.A.338 of 2023 had done prolonged tenures of more than 7 years each at I.T.I. Aundh, Tahsil Pune, District Pune on two occasions and if at all she was transferred to I.T.I. Kolhapur, District Kolhapur then it was for just short period of few weeks or some months before she was invariably brought back by showing her to be on deputation to I.T.I. Aundh, Tahsil Pune, District Pune vice Smt. S. M. Kundale, Crafts Instructor (Basic Cosmetology). On the other hand, Smt S. M. Kundale, Craft Instructor (Basic Cosmetology) who was posted at I.T.I. Kolhapur, District Kolhapur for extended tenures of more than 7 years on two occasions and if at all she was transferred to I.T.I. Aundh, Tahsil Pune, District Pune then it would be for brief period of some weeks or few months before she was again brought back by showing her to be on deputation to I.T.I. Kolhapur, District Kolhapur vice Smt. S.P.M. Shinde, Crafts Instructor (Basic Cosmetology).

5. The learned P.O. relied on the Affidavit-in-Reply dated 22.06.2023 filed on behalf of Director of Vocational Education and Training, Mumbai and Joint Director Vocational Education & Training, Pune. She submitted that there are Five Districts in Pune Division and there were Nine Sanctioned Posts of Craft Instructor (Basic Cosmetology) and all of these have been regularly filled up by the Director of Vocational Education and Training, Mumbai. In Pune District there are Three Sanctioned Posts in (a) I.T.I. Aundh, Tahsil Pune, District, Pune (b) I.T.I. Wagholi, Haveli, District Pune and (c) I.T.I. Varvand, Tahsil Daund, District Pune. The rest of the Six Sanctioned Posts of Craft Instructor (Basic Cosmetology) were in (i) Satara District-01 Post which is in ITI Satara (ii) Kolhapur District – 02 Posts which are in I.T.I. Kohapur and I.T.I. Shirol, (iii) Sangli District-02 Posts which are in I.T.I. Sangli and I.T.I. Islampur and (iv) Solapur District-01 Post which is at I.T.I. Mandrup. Since all the Nine Sanctioned Posts of Craft Instructor (Basic Cosmetology) have always been filled up and as dates of posting of all these Craft Instructor (Basic Cosmetology) are different, they become due for next rounds of transfers only on completion of Normal Tenure of 3 years in various cycles, their General Transfers are mostly required to be done by mutual convenience. Learned P.O. stressed that though the representations of the Applicants could not be considered for these reasons, no injustice has been done to the Applicants. Also, the Applicants had filed complaints on 24.08.2021 and 27.06.2022 regarding favour shown to Smt S.P.M. Shinde and Smt. S.M. Kundale both Crafts Instructor (Basic Cosmetology). However, the transfers and deputation orders of Smt S.P.M. Shinde and Smt. S. M. Kundale to I.T.I. Aundh, Tahsil Pune, District Pune and I.T.I. Kolhapur, District Kolhapur have always been issued according to provisions of law and rules and guidelines of GAD and there was no truth in the complaints filed by both Applicants.

6. The learned Advocate for Smt. S.P.M. Shinde, the Respondent No.3 in both O.A.No.337 of 2023 and O.A.338 of 2023 relied on her Affidavit in Reply dated 25.08.2023 to state that the Applicants have now been posted as Craft Instructor (Basic Cosmetology) respectively at (i) ITI Varvand, Tahsil Daund, District Pune and (ii) ITI Wagholi, Tahsil Haveli, District Pune based on their preferences. Further learned Advocate for Respondent No.3 stated that as grievances of the Applicants have since been redressed, both O.A.No.337 of 2023 and O.A.338 of 2023 are without any merit and should be dismissed. Further learned Advocate for Smt S.P.M. Shinde, the Respondent No.3 further stated that her posting as Craft Inspector (Basic Cosmetology) at ITI Aundh, Tahsil Pune, District Pune was justified on grounds of seniority as Smt. S. P. M. Shinde was appointed on 28.10.1996 whereas Applicants were appointed respectively on 21.07.1997 and 06.07.1999.

7. The Affidavit-in-Reply of the Director Vocational Education and Training, Mumbai dated 22.06.2023 and Joint Director Vocational Education & Training, Pune dated 05.07.2023 do not disclose any plausible reasons as to how Smt. S.P.M. Shinde and Smt. S.M.Kundale, both Craft Instructors (Basic Cosmetology) had been permitted to serve for unusually long tenures of 7 years at (i) I.T.I. Aundh, Tahsil Pune, District Pune and (ii) I.T.I. Kolhapur, District Kolhapur. After such protracted tenures of more than 7 years, whenever they were transferred it appears to have been invariably done by mutual consent. The transfer orders undoubtedly remained on paper as is evident from Smt. S.P.M. Shinde and Smt. S.M.Kundale, both Craft Instructors (Basic Cosmetology) exchanging places just after short period of time of few weeks or some months. Further, they were brought back by way of pseudo orders of deputation to i) I.T.I. Aundh, Tahsil Pune, District Pune and (ii) I.T.I. Kolhapur, District Kolhapur. Therefore, it is very evident that even after they were shown on paper to have been mutually transferred; after completion of Normal Tenures of Three Years, the

'status quo ante' was promptly restored using 'modus operandi' of 'pseudo orders' of deputation which came to be issued in gross violation of all guidelines for deputation as in any eventuality deputation could not have been done in respect of Cadre Posts of Craft Instructors (Basic Cosmetology). Smt. S.P.M. Shinde and Smt. S.M.Kundale both Craft Instructor (Basic Cosmetology) were thus beneficiaries of undue benevolence shown by Directors of Vocational Education and Training and Joint Directors, Vocational Education, Pune who have acted in brazen contravention of law viz Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 and all guidelines in G.A.D. G.R. dated 09.04.2018. Such well orchestrated pre planned acts of commission and omission on the part of Directors of Vocational Education and Training, Mumbai and Joint Directors, Vocational Education, Pune is not only condemnable but deserves appropriate action to be initiated against them for contravention of Rule 3 (xv ii) and (xv iii) of Maharashtra Civil Services (Conduct) Rules, 1979.

8. The Applicants had filed O.A. No.337/2023 and O.A. No.338/2023 on 27.03.2023 but subsequently they came to be posted as Crafts Instructor (Basic Cosmetology) at (i) ITI Varvand, Tahsil Daund, District Pune and (ii) ITI Wagholi, Tahsil Haveli but not to ITI Aundh, Tahsil Pune, District Pune. The grievances of Applicants in O.A.337 of 2023 and O.A.338 of 2023 cannot be overlooked just because they have now been given posting because it is imperative in such instances to enforce law. Therefore, stringent directions are given to Director, Vocational Education and Training, Mumbai and Joint Director, Vocational Education, Pune to enlighten themselves about law viz Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 besides guidelines in G.A.D. G.R. dated 09.04.2018 and other GRs and Circulars of GAD relating to 'Transfers' and 'Deputation' of Government Servants.

9. The post of Crafts Instructor (Basic Cosmetology) at I.T.I. Aundh, District Pune should be immediately freed from the ring fence maliciously erected around it over the years by Directors, Vocational Education and Training, Mumbai and Joint Directors, Vocational Education, Pune so as to ensure through implementation of law as well as fairness of action; that henceforth the post of Craft Instructor (Basic Cosmetology) in ITI Aundh, Tahsil Pune, District Pune invariably becomes available to all others including the Applicants who are serving on post of Crafts Instructor (Basic Cosmetology) in Pune Division. Further as remedial measures have to be taken without fail by Director, Vocational Education and Training, Mumbai and Joint Director, Vocational Education, Pune, it would be desirable that oversight is kept on their actions by Principal Secretary, Higher & Technical Education Department. Hence, copy of the judgment be forwarded to Principal Secretary, Higher and Technical Education Department.

ORDER

- (A) Original Application is partly Allowed.
- (B) No order as to Costs.

**(Debashish Chakrabarty)
Member(A)**

Place : Mumbai

Date : 13.12.2023.

Dictation taken by : V.S. Mane

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