

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO. 462 OF 2014

DISTRICT :THANE

- 1] Shri Nitin Shridhar Tandale,)
- 2] Shri Haridas Gopinath Taware,)
- 3] Shri Mahavir Ramchandra Bahirshet,)
- 4] Shri Chandrakant Kerba Gilbile,)
- 5] Shri Shivaji Nanba Patil,)
- 6] Shri Sanjay Shankarrao Kokulwar,)
- 7] Shri Raju Ganpatrao Dhanorkar)

All are working as Training Officer in)
Different Advance Vocational Training)
Schemes at Thane, Pune, Nasik, Kolhapur,))
etc. under the administrative control of)
the below named Respondent.)

Address For Service Of Notice:-)

Shri Arvind V. Bandiwadekar,)
Advocate, Having Office at 9,)
"Ram-Kripa", Lt. Dilip Gupte Marg)
Mahim, Mumbai - 400 016.)...**Applicant**

VERSUS

The Director [Training],)
Vocational, Education and Training)
Having Office at 3,)
Mahapalika Marg, P.B. No.10036,)
Mumbai -1.)**Respondent**

Ad

Shri A.V. Bandiwadekar, learned Advocate for the Applicant.

Shri K.B. Bhise, learned Presenting Officer for the Respondent.

CORAM : **Shri Rajiv Agarwal, Vice-Chairman**

Shri R.B. Malik (Member) (J)

DATE : **20 .01. 2016**

PER : **Shri Rajiv Agarwal, Vice-Chairman**

ORDER

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Shri K.B. Bhise, learned Presenting Officer for the Respondents.

2. This O.A. has been filed by the Applicants challenging the order dated 22.5.2014 issued by the Respondent ordering their posting in their original cadre of Craft Instructors, by reverting them from the post of Training Officer (Group Instructors).

3. Learned Counsel for the Applicant argued that the Applicants were selected a Craft Instructors in various crafts on various dates from 1983 to 1998. They were so appointed and they were getting pay in the pay scale of Craft

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Instructors which was Rs.1400-2600. The Applicants were, then selected to the post of Training Officer, which has a pay scale of Rs.1640-2000. The posts of Training Officers were created at 8 centres across Maharashtra at District level. The Applicant joined Government service on different dates from 1983 to 1998 as Craft Instructors in different disciplines. Some of them joined service as Assistant Lecturer, Workshop Assistant etc., while others joined service as Craft Instructors. Learned Counsel for the Applicants argued that the Respondent had decided to appoint in-service candidates as Training Officers in the pay scale of Rs.1640-2950, for which he invited applications from qualified and experienced in service candidates on different dates. Circulars were issued accordingly from time to time. The Applicants were subjected to written and practical examinations as well as interviews, before they were selected to the post of Training Officer. Appointment letters were issued to the Applicants from 1989 to 1999 on different dates and they have continued to work till date as Training Officers. The Applicants have been given Time Bound Promotion also after 12 years of service as Training Officers. The Applicants have been transferred from one Advanced Vocational Training Scheme Centre (AVTS) to another in Maharashtra during their tenure as Training Officers. The Respondent issued order on 11.1.2013 to delete the names of the Applicants from the final seniority list of Training Officers as on 31.12.2010. The Applicants have made representations against the said order but to no avail. The

Respondent issued impugned order dated 22.5.2014 transferring them to their original cadres in the lower post of Craft Instructors. Learned Counsel for the Applicants argued that this order has been passed without notice to the Applicant and without hearing them. It is issued in violation of the principles of natural justice. Learned Counsel for the Applicants argued that the Applicants were selected to the post of Training Officer on the basis of selection process and their appointments were regular in nature. As such, there is no question of reverting them to the post of Craft Instructors. The Applicants have been working as Training Officers for last 15 to 24 years and they cannot be reverted for no reason.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondent that the Applicants were posted as Training Officers on temporary basis. Their appointment orders clearly mentioned as such. The selection process adopted for these candidates were internal departmental stop-gap arrangement. It is clearly stipulated in the appointment order that the Applicants were not entitled to any seniority on the post of Training Officers (which are equivalent to the posts of Group Instructors). It was also made clear that the Applicant's seniority will be maintained in their own cadre of Craft Instructors. By oversight, the names of the Applicants were included in the seniority list of Craft Instructors published on 2.7.2011. This mistake has been rectified in the final seniority list published on

11.1.2013. Before this list was finalised, the say of the Applicants were heard. Learned P.O. argued that there are many Craft Instructors, who are senior to the Applicants and by giving seniority to the Applicants on the basis of temporary promotions, injustice would be caused to them. The Applicants were not selected to the post of Training Officers, who were required to be appointed by calling candidates from Open market by nomination or by promotion on the basis of seniority. Since the year 2008, regular selection process for appointment to the post of Training Officer has been followed. The Applicants are back door entrants and are not eligible to continue as Training Officers. There is no 'back-gateway' for fast track promotion, which the Applicants are claiming. They have already been compensated for working in higher posts by way of higher emoluments etc. Learned P.O. stated that Government has issued circular dated 25.8.2005 based on the judgement of Hon'ble Supreme Court in **A. Umarani Vs. Registrar Cooperative Societies, Tamilnadu.**

5. It is seen that the Applicants were appointed as Craft Instructors in various Industrial Training Institutes (I.T.I.S.) in the State. Their dates of appointments are as given below:-

Sr.No.	Name	Date	Pay Scale
1.	S.N. Patil	11.8.1983	1400-2600
2.	N.S. Tandel	23.7.1993	1640-2900

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3.	H.G. Tawre	15.11.1984	1400-2600
4.	M.R. Bahirshet	27.1.1994	1400-2600
5.	C.K. Gilbile	30.10.1993	1400-2600
6.	R.G. Dhanorkar	18.10.1993	1400-2600
7.	S.C. Kokulwar	7.1.1998	1400-2600

It seems that Shri Tandel was appointed as Group Instructor, but in review of the Organogram, the post was down-graded to that of Craft Instructor.

6. The Respondent has issued circulars on different dates to the Principals of I.T.I.s and Head Masters of Government Technical High School for inviting applications from Craft Instructors/ Group Instructors in I.T.I.s and Full Time Instructors/Assistant Lectureres for the post of Training Officers in Advanced Vocational Training Scheme Centres (A.T.V.S.), the number of which is 8 in the State, as per the Applicants. A copy of one such circular is at page no.186 of the Paper Book. It seems that the posts of Training Officers were temporary in nature. Appointment letter dated 29.10.1999 of the Applicant No.6 is at Page no. 191 of the Paper Book. Condition No.2 of the appointment reads:-

- (२) ते सध्या निव्वळ स्वरूपात धारण करीत असलेल्या प्रशिक्षण अधिकारी पदामुळे कोणत्याही कारणासाठी समतुल्य पदावर सेवा ज्येष्ठतेची मागणी करणार नाही किंवा ही पदे अन्य प्रशिक्षण अधिकारी पदाच्या विभागीय संवर्गातही वर्ग केली जाणार नसून ती स्वतंत्र राखली जातील.
- (३) त्यांची मूळ पदावरील सेवाज्येष्ठता मूळ संवर्गातील त्यांच्या संबंधीत प्रादेशिक विभागात तशीच अबाधीत ठेवण्यांत येईल व त्या पदावरील सेवाज्येष्ठतेप्रमाणे पदोन्नतीकरिता विचार करण्यांत येईल.

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Similar orders have been issued in respect of other Applicants. From this, it is clear that the Applicants were fully aware that their appointment to the post of Training Officer was purely ad-hoc in nature. They were expressly informed that their seniority will be maintained in their original cadre of Craft Instructors and by virtue of their ad-hoc/ temporary appointment as Training Officers, they will not earn any seniority in the cadre of Group Instructors, which is the post equivalent to the post of Training Officer. It is thus, clear that the Applicants were entitled to draw pay in the higher scale of Training Officer, as long as they worked in that post. However, their seniority was to be counted only in their original cadre of Craft Instructors. The Applicants have accepted all these conditions while accepting appointment to the post of Training Officer (Group Instructors). In the Recruitment Rule for the post of Group Instructors, there is no provision to fill the posts by limited departmental selection. The selection has to be by nomination (open competition) or by promotion. It is clear that Applicants were not selected to the posts of Training Officer (Group Instructors) after following prescribed procedure as per Recruitment Rules. The contention of the Respondent that if their selection is treated as regular selection, it would amount to jumping promotion, at the cost of their colleagues in the cadre of Craft Instructors appears to be correct. Even their appointment as Training Officers was not in accordance with the recruitment rules. Their appointment was purely ad-hoc & temporary and it was made clear to them that they



will not get any seniority in the cadre of Group Instructors. In the order passed by the Respondent on 16.7.2014 (Exhibit 'L' page 73 of the Paper Book) these facts have come out very clearly. This order reads:-

“सदरहू प्रकरणी उपरोक्त कर्मचा-यांची गट निदेशक, प्रगत व्यवसाय प्रशिक्षण पध्दती (सद्यःस्थितीत पदनाम प्रशिक्षण अधिकारी) या पदावरील नियुक्ती ही खुली स्पर्धात्मक परीक्षा न घेता विभागात कार्यरत कर्मचा-यांमधूनच शैक्षणिक अर्हता व अनुभव धारण करीत असलेल्या उमेदवारांची निवड करून केल्याचे तसेच निवड आदेशात त्यांची सेवाज्येष्ठता ही त्यांच्या मूळ पदाच्या अनुषंगाने संबंधित प्रादेशिक विभागात ठेवण्यात येत असल्याचे व मूळ पदावरील सेवाज्येष्ठतेच्या आधारे काही कर्मचा-यांना पदोन्नती देण्यात आली असल्याचे व पदोन्नती दिलेले कर्मचारी पदोन्नतीच्या पदावर रुजू झाल्याची बाब संचालनालयाच्या निदर्शनास आल्याने संचालनालयाने दि.२२/०९/२०१४ च्या कार्यालयीन आदेशान्वये उपरोक्त कर्मचा-यांची पदस्थापना त्यांच्या मूळ संवर्गात करण्यात आली.”

It further reads:-

“सदरहू प्रकरणी अर्जदार व शासनाच्या युक्तीवाद ऐकून घेतल्यानंतर सदरहू प्रकरणी उपरोक्त कर्मचा-यांची गट निदेशक, प्रगत व्यवसाय प्रशिक्षण पध्दती (सद्यःस्थितीत पदनाम प्रशिक्षण अधिकारी) या पदावरील नियुक्ती ही विहित पध्दतीने खुली स्पर्धात्मक परीक्षा न घेता विभागात कार्यरत कर्मचा-यांचीच स्पर्धात्मक परीक्षा घेऊन करण्यात आली असल्याची बाब संचालनालयाच्या निदर्शनास आल्याने संचालनालयाने दि.२२/०९/२०१४ च्या कार्यालयीन आदेशान्वये उपरोक्त कर्मचा-यांची पदस्थापना त्यांच्या मूळ संवर्गात करण्यात आलेली बाब उचित ठरण्यास पात्र ठरते. तसेच उपरोक्त निष्कर्ष व विवेचन विचारात घेऊन पुढीलप्रमाणे आदेश पारीत करण्यात येत आहेत.”

7. We find that the representations of the Applicants have been disposed of by the Respondent by a well reasoned order. The order appears to be based on sound reasoning and does not suffer from any illegality or infirmity. Obviously the Applicants have been well compensated for working as Training Officers by way of higher pay scales etc. They were

not selected for these posts by regular selection process as per recruitment rules. They were fully aware that their appointment were ad-hoc and temporary in nature and they were not entitled to any seniority in the higher posts. Their appointments were, infact, in the nature of 'one-step promotion' as they are known in common parlance. Such promotions are not permanent and the incumbents donot earn any seniority in the promoted post by virtue of one step promotion. The Applicants are not eligible to any reliefs sought by them in the present O.A.

8. Having regard to the aforesaid facts and circumstances of the case, this O.A. is dismissed with no order as to costs.

Sd/-

(R.B. MALIK)
(MEMBER) (J)

Sd/-

(RAJIV AGARWAL)
(VICE-CHAIRMAN)

Date : 20.01.2016
Place : Mumbai
Dictation taken by : SBA