MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 596/2016

Anant Govindrao Gorde,
Aged about 54 years,
R/o Raghunandan Apartment,
Block No. 111, Rajapeth,
Amravati. ---------- **Applicant.**

Versus

1) The State of Maharashtra,
through its Secretary,
Ministry of Irrigation and Water Resources,
Mantralaya, Mumbai-440 032.

2) The Chief Engineer, Special Project,
Water Resources Department,
Amravati.

3) Sanjay Mahadeorao Niwal,
R/o Executive Engineer,
Amravati Project Construction Division no.1,
Amravati. ---------- **Respondents**

4) Shri S.D. Kumbhare R/o House No. 4 Ganesh Nagar Near Gajanan Maharaj Mandir, Wadgaon Road, Yavatmal.

1. Shri G.M. Kubade, Advocate for the applicant.
2. Shri M.I. Khan, Presenting Officer for respondents no. 1 and 2.
3. None for Respondents no. 3 and 4.

Coram:- Rajiv Agarwal : Vice-Chairman.

Dated: - 10/3/2017

***

ORDER

This O.A. has been filed by the applicant seeking direction to the Respondents no. 1 and 2 to post him in a post in Amravati as per the direction of this Tribunal in O.A. No. 386/2015. The Learned Counsel for the Applicant argued that by order dated 25/6/2015, the Respondent no. 1 has posted the applicant as Executive Engineer, Amravati Project Construction Division No. 1, Amravati. However, that order was not implemented and subsequently by order dated 24/8/2016 some other officer was posted as Executive Engineer , Amravati Project Division No. 1, which in effect cancelled the posting of the applicant in that post. The applicant filed O.A. no.386/2015 before this Tribunal. The applicant was in the meanwhile transferred by order dated 10/8/2015 as Executive Engineer, Irrigation Division, Z.P. Yavatmal and that order was challenged in this O.A. no. 386/2015. The Learned Counsel for the applicant stated that by order dated . 18th November, 2015, this Tribunal quashed the order dated 10/8/2015 transferring the applicant to Zilla Parishad, Yavatmal. The Respondent no. 1 was directed to consider on priority basis the applicant's posting at Amravati in the next general

transfers of 2016. The Learned Counsel for the applicant stated that the order of this Tribunal was quite clear that the applicant should have been considered for posting as Executive Engineer, Amravati Project Construction Division no.1, Amravati. However, the Respondent no. 1 has mis- interpreted the order of this Tribunal and posted the applicant in the office of Divisional Commissioner, Amravati. The Learned Counsel for the applicant contended that the applicant has hardly two years left to retire and he deserves to be posted as Executive Engineer, Amravati Project Construction Division No.1, which was the order issued by the Respondent no. 1 dated 25/6/2015.

2. The Learned Presenting Officer argued on behalf of the respondents that the applicant is seeking posting in a particular post i.e. Executive Engineer, Amravati Project Construction Division No.1. No Govt. servant has a legal right of being posted in any particular post or office as per his choice. Transfer of a Govt. employee is a condition of his service and unless any statutory law or rule is violated, the applicant cannot challenge that. In the present case, the applicant has not been able to challenge his transfer to Amravati in Divisional

Commissioner's Office on any legal ground. The Respondent no. 1 has fully implemented the order of this Tribunal dated 18/11/2015 in O.A. No. 386/2015 by posting him at Amravati. This Tribunal directed the Respondent no. 1 to consider the request of the applicant for a posting at Amravati, not in a particular post in Amravati. The Learned Presenting Officer concluded by stating that there is no merit in the O.A. and it may be dismissed.

3. I have carefully perused the order of this Tribunal dated. 18th November, 2015 in O.A. no.386/2015. It is true that the Respondent no. 1 has posted the applicant as Executive Engineer , Amravati Project Construction Division by order dated 25/6/2015. However, by order dated 10/8/2015, the applicant's posting was changed and he was posted as Executive Engineer, Z.P. Yavatmal. That order was challenged in the aforesaid O.A. and was quashed by this Tribunal. Considering the fact that the applicant was posted at Amravati as per his own request, this Tribunal directed the Respondent no. 1 to consider posting the applicant in Amravati during general transfers of 2016. The moot point is how to interpret the aforesaid order of this Tribunal. The applicant claims that this order should be read to mean that the

Tribunal has directed the applicant to be posted as Executive Engineer, Amravati Project Construction Division No.1. I am unable to accept this contention for the following reason :-

When the O.A. no. 386/2015 was considered by this Tribunal the fact that the applicant was posted as Executive Engineer, Amravati Project Construction Division No.1 by order of the Respondent no. 1 dated . 25/6/2015 was pleaded by the applicant in the O.A. It was also in the knowledge of this Tribunal that another officer viz., Shri Sanjay Mahadeorao Niwal, who is Respondent no. 3 in the present O.A., was posted as Executive Engineer, Amravati Project Construction Division No.1 by order dated 24/8/2016. This Tribunal never made any reference to that order dated 24/8/2016. In fact, if the Tribunal's intention was to direct the Respondent no. 1 to consider posting the applicant as Executive Engineer, Amravati Project Construction Division No.1, then that could have been done by quashing the aforesaid order dated 24/8/2016. If the order of the Tribunal as interpreted by the applicant is accepted , then the posting of Respondent no. 3 would be required to be changed before he has completed his tenure of three years in that post. That will be too much to infer from the

plain reading of the order of this Tribunal dated. 18/11/2015. The order of the Tribunal should be interpreted to mean that the applicant should be considered for posting in Amravati and the Respondent no. 1 has done so. The order of this Tribunal dated 18/11/2015, in my view, is fully complied with by the Respondent no. 1.

4. Having regard to the facts and circumstances referred to above, the O.A. is dismissed with no order as to costs.

sd/-

(Rajiv Agarwal)
Vice-Chairman.

Skt.