

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.744 OF 2020**

**DISTRICT : SANGLI**

Shri Bhaskar Malibhau Gade. )  
Age : 48 Yrs., Working as Jail Guard, )  
Sangli District Prison and residing at )  
Yerwada Jail Staff Quarters, Room No.233 )  
Yerwada, Pune – 6. )...**Applicant**

**Versus**

The Deputy Inspector General [Prisons], )  
Western Division, Yerwada, Pune – 6. )...**Respondent**

**Mr. Bhushan A. Bandiwadekar, Advocate for Applicant.**

**Mr. A.J. Chougule, Presenting Officer for Respondent.**

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

**DATE : 02.07.2021**

**JUDGMENT**

1. The Applicant has challenged the order dated 29.10.2020 to the extent of his posting on reinstatement at Sangli instead of Yerwada Central Prison, Pune, invoking jurisdiction of this Tribunal under Section 19 of Administrative Tribunals Act, 1985.

2. Facts lies in narrow compass :

The Applicant was serving as Jail Guard at Yerwada Central Prison, Pune. By order dated 15.07.2020, he was suspended in

contemplation of departmental enquiry invoking Rule 4(1)(a) of Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (hereinafter referred to as 'Rules of 1979' for brevity) on the allegation that because of his negligence, one jail inmate had escaped from Jail in night. At the time of suspension, the Head Quarter of the Applicant was kept at Kolhapur. However, later, Respondent – Deputy Inspector General (Prisons), Pune by order dated 29.10.2020 revoked the suspension and reinstated the Applicant in service by giving posting him at District Prison, Sangli instead of Central Prison, Yerwada, Pune.

3. Shri B.A. Bandiwadekar, learned Advocate for the Applicant sought to contend that though the Applicant was suspended in contemplation of regular D.E. for serious misconduct after reinstating the Applicant in service, the Respondent had initiated departmental proceeding under Rule 10 of 'Rules of 1979' for minor punishment. Adverting to this aspect, he sought to contend that where a Government servant is subjected to D.E. for minor punishment, there was no reason to suspend him, and therefore, the suspension itself was unwarranted. He, therefore, submits that Applicant at the time of reinstatement in service ought to have been given posting at his original place at Central Prison, Yerwada, Pune.

4. Per contra, Shri A.J. Chougule, learned Presenting Officer submits that at the time of reinstatement in service, the Applicant was given different District in view of G.R. dated 20.04.2013 which inter-alia provides for giving posting to a Government servant on reinstatement in service at different place i.e. other than his original place. He, therefore, sought to justify the posting of the Applicant at Sangli. He has further pointed out that despite posting given to Sangli, the Applicant did not join at Sangli till date and thereby committed another misconduct for which he can be dealt with separately.

5. True, initially, the Applicant was suspended in contemplation of regular D.E. in view of alleged serious misconduct of negligence because of which one of the inmate escaped from Jail in night. However, later Respondent seems to have toned down the seriousness of action and issued Charge-sheet under Rule 10 of 'Rules of 1979' for minor punishment on 17.11.2020. The Applicant has already submitted his reply to the Charge-sheet on 22.02.2020. However, till date, no further order has been passed in the matter and it is simply kept in cold storage. Indeed, it being for minor punishment, the Respondent ought to have decided it expeditiously within reasonable time. It is appalling that, though the period of more than seven months is over, no further orders are passed in D.E.

6. In so far as suspension is concerned, the Applicant has not challenged the legality or validity of suspension order. His relief is restricted to the extent of his posting at Sangli District Prison instead of Central Prison, Yerwada, Pune. The Applicant was suspended on the allegation of serious charge, and therefore, having regard to the alleged misconduct, he was suspended in contemplation of D.E. Suffice to say, at the time of suspension, there was *prima-facie* enough material to suspend the Applicant. Only because later Respondent issued Charge-sheet for minor punishment under Rule 10 of 'Rules of 1979' instead of major punishment under Rule 8 of 'Rules of 1979', the Applicant cannot ask for reinstatement at the same place as a matter of right.

7. Indeed, by Circular dated 20.04.2013 issued by GAD, instructions were issued to give posting to a Government servant on his reinstatement in service at place other than original place of posting. The relevant instructions are as under :-

“२. उपरोक्त परिस्थिती विचारात घेऊन, निलंबित शासकीय कर्मचा-यांच्या अधिका-याच्या पुनस्थापनेबाबत कार्यवाही करण्याकरिता खालील प्रमाणे मार्गदर्शक सूचना देण्यात येत आहेत.

- अ) राज्यस्तरीय संवर्गातील अधिकारी/कर्मचारी यांना त्यांचा मूळ महसुली विभाग (Division) व ज्या पदावर कार्यरत असताना निलंबित केले तो महसूल विभाग वगळून अन्यत्र अकार्यकारी पदावर नियुक्ती करण्यात यावी.
- ब) विभागीय संवर्गातील कर्मचार्यांना पुनःस्थापित करताना त्यांचा मूळ जिल्हा व या जिल्ह्यात कार्यरत असताना निलंबित केले तो जिल्हा वगळून अन्य जिल्ह्यात अकार्यकारी पदावर नियुक्ती करण्यात यावी.
- क) जिल्हा संवर्ग कर्मचार्यांना पुनःस्थापित करताना त्यांचा मूळ तालुका व ज्या तालुक्यात कार्यरत असताना निलंबित केले असेल तोच तालुका वगळून अन्य तालुक्यामध्ये अकार्यकारी पदावर नियुक्ती करण्यात यावी.
- ड) सर्व विभागांनी त्यांच्या अधिपत्याखालील विभागातील अकार्यकारी पदे शोधून त्यांची यादी तयार करावी.”

8. Since Applicant was Jail Guard at Central Prison, Yerwada, Pune and there are no Jails at Taluka level, he was required to be given posting at some other different place where Jails are located and accordingly, he has given posting at Sangli. I, therefore, see no illegality in giving posting to the Applicant at Sangli on reinstatement in service.

9. Since Applicant has already submitted his reply to the Charge-sheet, it is obligatory on the part of Respondent – Deputy Inspector General [Prisons], Pune to pass further appropriate order in the said proceeding without further loss of time, so that Applicant can get his service benefits in accordance to law.

10. In view of above, the challenge to the impugned order giving posting to the Applicant at Sangli holds no water and O.A. deserves to be disposed of with direction to the Respondent to complete D.E. initiated for minor punishment within stipulated time.

11. In the result, the O.A. is disposed of with following directions :-

- (A) The Respondent shall pass final order in D.E. within two weeks from today in accordance to law and the decision thereof, as the case may be, shall be communicated to the Applicant within a week thereafter.
- (B) The learned Presenting Officer is directed to communicate this order to the Respondent immediately for compliance.

(C) No order as to costs.

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

Mumbai

Date : 02.07.2021

Dictation taken by :

S.K. Wamanse.

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