

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.825 OF 2018**

**DISTRICT : SANGLI**

Shri Chetan Suhas Patil. )  
Residing at Range Forest Office, )  
National Highway No.63, Pota Godam Rd., )  
Asarali, Tal.: shironcha, )  
Dist : Gadchiroli. )...**Applicant**

**Versus**

1. The State of Maharashtra. )  
Through the Secretary, )  
Home Department, Mantralaya, )  
Mumbai – 400 032. )
2. The Director General of Police. )  
SBS Road, Colaba – 1. )
3. The Special Inspector General )  
(Administration), Kolhapur Circle, )  
Kolhapur. )
4. The Special Inspector General )  
(Kolhapur Range), Kasaba Bawada )  
Road, Near Dhere Prasad Hall, )  
Karveer, Kolhapur Range, )  
Kolhapur – 6. )
5. The Superintendent of Police. )  
Kasaba Bawada Road, )  
Kolhapur – 6. )
6. The Addl. Principal Chief Conservator )  
of Forest (Administration, )  
Subordinate cadre), M.S, Nagpur, )  
Van Bhavan, Ramagiri Road, )  
Civil Lines, Nagpur – 1. )...**Respondents**

**Mr. S.S. Dere, Advocate for Applicant.**

**Ms. N.G. Gohad, Presenting Officer for Respondents.**

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

**DATE : 05.08.2019**

### **JUDGMENT**

1. The Applicant has challenged the impugned order dated 09.03.2017 issued by Respondent No.4 – Superintendent of Police, Kolhapur for recovery of Rs.8,47,949/- from the Applicant in view of bond executed by him at the time of appointment on the post of Police Sub Inspector.

2. Shortly stated facts giving rise to this O.A. can be stated as follows :-

The Applicant was selected for the post of Police Sub Inspector (PSI) through Maharashtra Public Service Commission (MPSC) by way of nomination and had joined Maharashtra Police Academy, Nashik on 28<sup>th</sup> April, 2015. After completion of training, he was posted at Shahapur Police Station, District Kolhapur on 24.06.2016 for two years on probation. At the time of joining Maharashtra Police Academy, Nashik, he had executed bond. Before appointment on the post of PSI, the Applicant had applied for the post of Range Forest Officer in Government of Maharashtra in 2014. Accordingly, he was selected through MPSC by nomination and received appointment letter to join the post of Range Forest Officer (RFO) at Darjeeling on 15.09.2016. The Applicant then made representation to Respondent No.2 on 30.07.2016 to relieve him from the post of PSI, Shahapur Police Station so as to join the post of RFO. Consequently, the Respondent No.5 passed an order on 17.09.2016 and relieved the

Applicant from the post of PSI in terms of Circular dated 02.12.1997. Thereafter, the Respondent No.4 – Special Inspector General, Kolhapur Range by letter dated 15.12.2016 directed Respondent No.5 to recover sum of Rs.6,81,241/- (amount received by the Applicant towards salary and allowances during the period of his training at Maharashtra Police Academy, Nashik). Later, the Respondent No.5 addressed a letter to Respondent No.6 – Additional Principal Chief Conservator of Forest for recovery of Rs.6,81,241/- received by the Applicant during his training period plus Rs.1,66,708/- received by the Applicant towards salary during his service at Shahapur Police Station. Thus, the recovery of total amount of Rs.8,47,949/- was sought to be made. Accordingly, a show cause notice dated 13.10.2017 was issued to the Applicant for recovery of Rs.8,47,949/-. The Applicant submitted his reply on 26.10.2017 stating that he has joined other service with State of Maharashtra and was accordingly, relieved by the Department in terms of Circular dated 02.12.1997, and therefore, he is not liable to pay Rs.8,47,949/-. However, the Respondent No.5 by order dated 09.03.2017 directed recovery of Rs.8,47,949/- in view of bond executed by him while entry in Government service on the post of PSI. The Applicant has challenged this recovery in the present O.A.

3. The Respondents resisted the application by filing Affidavit-in-reply *inter-alia* denying the entitlement of the Applicant to the relief claimed. It is not in dispute that the Applicant was selected for the post of PSI and at the time of joining, he had executed the bond on 28.04.2015. It is not in dispute that later he was relieved from the post of PSI on his request, as he was selected for the post of RFO. The Respondents contend that in view of bond executed by the Applicant that if he resigns from the post of PSI or apply to the Government to relieve him from the service on any ground other than those deem fit or acceptable to the Government within five years from the date of joining, he shall be liable to reimburse all expenditure

incurred for his training plus salary and allowances paid to him during service period. As such, in view of execution of bond, he is liable to pay Rs.6,81,241/- towards salary and allowances paid during the period of training plus Rs.1,66,708/- towards salary and allowances paid to him during his service at Shahapur, District Kolhapur. The Respondents denied that Clause 2(b) of Circular dated 02.12.1997 is applicable in the present situation. Before issuance of order of recovery, a show cause notice was given to the Applicant to which he replied on 26.10.2017. As such, before passing the order of recovery, an opportunity of hearing was given in accordance to principles of natural justice. The Respondents thus contend that in view of bond executed by the Applicant, he is liable to reimburse total amount of Rs.8,47,949/- and prayed to dismiss the O.A.

4. Shri S.S. Dere, learned Advocate for the Applicant made two-fold submission. Firstly, he submits that as per bond executed by the Applicant, the liability of reimbursement arises only in case of resignation and not where the employee is relieved by the Government to join another service in the Government. In second limb of submission, he contends that by virtue of Rule 20 of Maharashtra Civil Services (General Conditions of Service) Rules, 1981 (hereinafter referred to as 'Rules 1981' for brevity), the Applicant has lien on the post of PSI and the said lien continues till he acquires permanency or lien on the post on which he subsequently selected. According to him, still the Applicant is having lien on the post of PSI, and therefore, the impugned order of recovery is unsustainable in law.

5. Per contra, Ms. N.G. Gohad, learned Presenting Officer submits that in view of unambiguous and clear contents of the bond executed by the Applicant, he cannot disown the liability to reimburse Rs.8,47,949/- as he is relieved from the post of PSI for joining another post in the Government where he already joined. As regard Rule 20 of

'Rules 1981', she submits that it has no application to the present situation.

6. The crux of the matter is whether the Applicant is liable to reimburse Rs.8,47,949/- to the Government.

7. There is no denying that while entering into service on the post of PSI, the Applicant has executed bond on 28.04.2015 on Stamp Paper of Rs.100/- as required in terms of service conditions vide Government letter dated 04.11.2011. Here, it would be appropriate to reproduce relevant contents of bond, which are as follows :-

*“that I agree that, during the training period of 2 years, and therefore, during the subsequent period of 3 years after completion of training period, if I resign from the post of PSI or apply to the Government to relieve me from the service on any grounds other than those deemed fit or acceptable by the Government, I shall be liable to reimburse all expenses incurred on my training, plus the salary and allowances paid to me during my service period.*

*I have executed this bond after having understood the meaning of the contents thereof and I solemnly declare that I shall be abide by the said bond executed by me.”*

The aforesaid bond is also attested and signed by two guarantors stating that if bondee (Applicant) fails to honour the commitment, the guarantor shall be liable to pay the amount to the Government on behalf of the Applicant.

8. In so far as the construction of the documents is concerned, it is well settled principle of law that it has to be interpreted and considered bearing in mind the intention of the parties while executing the document and it must be read as they have been written. The intention has to be ascertained from the contents of the documents and the same shall be in conformity with the real intention of the parties to the documents.

9. The submission advanced by the learned Advocate for the Applicant that the liability to reimburse the amount can arise only in case of resignation is not at all acceptable in view of contents of the bond and the intention of the parties. It is quite clear from the contents of the bond that the liability to reimburse arises in following two situations :

(a) The Applicant resigned from the post of PSI

or

(b) The Applicant applied to the Government to relieve him from the service on any grounds other than those deem fit and acceptable by the Government.

In the present case, admittedly, the Applicant did not resign from the post of PSI and he applied to the Government to relieve him from the post of PSI. Therefore, the situation falls in second category as he had applied to the Government to relieve him from the service on the ground other than those deem fit or acceptable by the Government. As such, the word 'or' in the bond is disjunctive and it cannot be replaced by word 'and' as suggested or sought to be interpreted by the learned Advocate for the Applicant. Suffice to say, the contents of bond, which does not admit any ambiguity, explicitly shows that even in case of relieving to join another post may be with the Government, the Applicant was liable to reimburse the amount. The intention behind the bond is that where the employee is selected and Government spent huge amount on his training, then he should render some period of minimum service before he switch over to other job. In the present case, the period of minimum service is five years, so as to discharge from the conditions of the bond. However, he switched over to other job after completing one year and five months' service. He joined on 28.04.2015 at Maharashtra Police Academy, Nashik and after completion of training joined regular post as PSI at Shahapur, District Kolhapur on 24.06.2016 and, thereafter, he was

relieved on 17.09.2016. As such, hardly for three months, he served on the regular post at Shahapur. Thus, he was relieved from service after one year and five months from the date of joining.

10. The learned Advocate for the Applicant sought to place reliance on Circular issued by GAD on 02.12.1997 and referred to Clause 2 of the Circular in support of his submission that where the Government servant intent to join another Government service, he is not required to resign and only needs to be relieved on request. There could be no dispute about this aspect as stated in Clause 2(b) of Circular, which is as follows :-

“२. (ब) राजीनामा देण्याची/स्वीकारण्याची केव्हा आवश्यकता नाही -

(१) या राज्याच्या शासनाच्या सेवेत असणा-या शासकीय अधिका-याने/कर्मचा-याने याच राज्य शासनाच्या सेवेतील किंवा केंद्र शासनाच्या सेवेतील अन्य पदावरील नियुक्तीकरिता विहित कार्यपध्दतीचा अवलंब करून अर्ज केला असेल, तर नवीन पदावरील नियुक्तीकरिता निवड झाल्यावर त्याने पूर्वीच्या पदाचा राजीनामा देण्याची आवश्यकता असणार नाही. अशा अधिका-याला/कर्मचा-याला नवीन पदाचा कार्यभार घेण्यासाठी कार्यमुक्त करण्यात यावे.

(२) शासकीय अधिका-याने/कर्मचा-याने शासकीय सेवेत रुजू होण्यापूर्वी याच राज्य शासनाच्या सेवेतील अन्य पदावरील नियुक्तीसाठी अर्ज केला असेल तर पुढील अटीची पूर्तता होत असल्यास, त्या कर्मचा-यास कार्यमुक्त करण्यात यावे.”

11. The aforesaid Circular all that stated that there is no need of resignation, if the Government servant wants to join another Government service. This Clause from Circular dated 02.12.1997 cannot be read in isolation and without reading the contents of the bond. In bond, two situations are covered where the employee is liable to reimburse the amount. First, resignation and second, even if such employee is relieved to join another post on any ground other than those deem fit or acceptable by the Government. Here, there is nothing to suggest that the Government has accepted the request of the Applicant to relieve him without enforcement of the conditions mentioned in the bond. Only because the Applicant has been relieved to join another post, that does not mean the employee is exonerated or discharged from the liability to reimburse the amount spent by the Government on his training.

12. True, the relieving order dated 17.09.2016 reveals that the Applicant was relieved in reference to Circular dated 02.12.1997 but that does not *ipso-facto* mean that the Government has discharged the Applicant from the condition of reimbursement of the amount. The Applicant was relieved by Superintendent of Police, Kolhapur and while relieving, he stated as follows :-

“तरी त्या अनुषंगाने परिपोउपनि चेतन सुहास पाटील यांची वनक्षेत्रपाल गट व या पदावर नेमणुक झाल्याने त्यांना सामान्य प्रशासन विभाग, शासन निर्णय क्र.एसआरव्ही.१०९२/१०३३/प्र.क्र.३३/९२/८, दिनांक ०२/१०/१९९७ च्या तरतुदीनुसार त्यांना वनक्षेत्रपाल गट - ब या पदाचे प्रशिक्षण करीता या जिल्ह्यांचे आस्थापनेवरून पोलीस उपनिरीक्षक पदावरून दिनांक १७/०९/२०१६ रोजी म.नं. कार्यमुक्त करण्यात येत आहे.”

As such, only because of reference of Circular dated 02.12.1997, in the relieving order dated 17.09.1996, it cannot be said that the Applicant is discharged from the liability to reimburse the amount to the Government. In absence of any such express waiver by the Government, it cannot be assumed that the Applicant is relieved from the liability to reimburse the amount.

13. Apart, Circular dated 02.12.1997 speaks about the method of relieving the Government servant who wants to join another service in the Government. Significant to note that in same Circular, as per Clause 2(a)(7), the care is taken that the conditions of bond are respected and complied with while relieving the Government service. Clause 2(a)(7) is as follows :-

“२.(अ) शासकीय अधिका-याचा /कर्मचा-याचा राजीनामा स्वीकारण्यासंदर्भातील सर्वसाधारण सूचना –

.....

(७) राजीनामा स्वीकारण्यापूर्वी कराराच्या किंवा बंधपत्राच्या अटी विचारात घेण्यात याव्यात, तसेच करारानुसार राजीनामा स्वीकृती संदर्भात पूर्वसूचना देण्यासाठी विहित करण्यात आलेला कालावधी १ महिन्यापेक्षा जास्त असेल, तर सदरहू कालावधी समाप्त होईपर्यन्त राजीनामा स्वीकारण्याचा निर्णय रोखून ठेवण्यात याचा व तसे संबंधित अधिका-याला/कर्मचा-याला एक महिन्याची मुदत संपण्यापूर्वी कळविण्यात यावे.”

True, the aforesaid Clause is applicable where the Government servant intends to resign from the existing post to join another post.



Whereas, in the present case, the Applicant has submitted an application to relieve him from the said post and he was relieved in terms of Clause 2(b) of Circular dated 02.12.1997. However, the fact remains that the conditions stipulated in the bond cannot be ignored or by-passed while relieving the Government servant.

14. In the present case, the Circular dated 02.12.1997 cannot be read in isolation or so as to override the contents of the bond where the Applicant has specifically undertaken to reimburse the Government the expenses incurred on his training plus salary and allowances paid to him during service period in case, he resigns from the post of PSI or apply to the Government to relieve him from the service. This being the position, where the Government has spent public money Rs.8,47,949/- on the Applicant on his training and salary, he cannot be allowed to turn around and to deny the liability accepted by him by executing the bond. If the submission of learned Advocate for the Applicant is accepted that in case of relieving the Applicant, he is not liable to reimburse the amount, then it would defeat the very purpose and object of the bond. I, therefore, find no merits in the submission advanced by the leaned Advocate for the Applicant.

15. Now turning to the aspect of lien, what Rule 20 of 'Rules 1981' provides is for acquiring and ceasing of lien which is as follows :-

**“20. Acquiring ceasing of a lien** - Unless in any case, if the otherwise provided in these Rules, the Government servant on substantive appointment to any permanent post acquires a lien on that post and ceases to hold any lien previously acquired on any other post.”

In the present case, there is no question of applicability of Rule 20 of 'Rules 1981' as admittedly, the Applicant is relieved from the post of PSI and had joined another service. Rule 20 has nothing to do with

the liability incurred by the Applicant to reimburse the Government the amount spent on him as stipulated and agreed by the Applicant in bond dated 28.04.2015.

16. Shri Dere, learned Advocate for the Applicant referred the Judgment of Hon'ble High Court, Bench at Aurangabad in Writ Petition No.1379/2015 (Sanjay Patil Vs. State of Maharashtra). In that case, the Petitioner was appointed on the post of Police Constable in 2005 and worked for six and half years. Then he applied for the post of Warden on the establishment of Director of Social Welfare and was selected in 2012. On receipt of Applicant's order for the post of Warden, the Petitioner submitted an application / resignation letter dated 19.07.2012 and the same was accepted and Petitioner was relieved from service. However, in short period, it was revealed to the Social Welfare Department that the Petitioner was ineligible to apply for the post of Warden from the category of Ex-serviceman, as he had already availed that benefit while applying on the post of Police Constable. It is in that context, the Petitioner had filed O.A. to take him back in service on the post of Police Constable and the O.A. was dismissed by the Tribunal and being aggrieved by it, Writ Petition was filed. It is in that context, Rule 20 of 'Rules 1981' was invoked. The Hon'ble High Court held that the Petitioner was not confirmed on the post of Warden in Social Welfare Department and even had not completed the probation period. It is in that context, it has been held that till the Petitioner is confirmed with Social Welfare Department, his lien on the original post would subsist. Accordingly, Writ Petition was allowed and directions were given to restore the Petitioner on his original post of Police Constable without back-wages.

17. As such, in Sanjay Patil's case (cited supra), the Applicant was seeking reinstatement in service on the post of Police Constable having found not eligible for continuation in service on the post of Warden in Social Welfare Department. Whereas, in the present case, it is nowhere the contention of the Applicant that he is willing to

resume his earlier post as PSI. He is continuing his service as RFO, and therefore, this is not a case to invoke Rule 20 of 'Rules 1981' much less to discharge the Applicant from the obligation accepted under bond dated 29.04.2015. Suffice to say, the Judgment in Sanjay Patil's case is of little assistance to the Applicant in the present context.

18. The totality of aforesaid discussion leads me to conclude that the challenge to the impugned order of recovery of Rs.8,47,949/- arising from the bond admittedly executed by the Applicant is without any merit and I see no illegality in the impugned action. The O.A, therefore, deserves to be dismissed. Hence, the following order.

**ORDER**

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

Sd/-

(A.P. KURHEKAR)  
Member-J

Mumbai  
Date : 05.08.2019  
Dictation taken by :  
S.K. Wamanse.