

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.914 OF 2019

Shri Govind D. Karad)
Aged 52 years, Working as Joint District Registrar,)
Class-I (H.G.), Solapur R/at 31, Swastika, Vaibhav)
Society, Bibwewade,Pune 411 037.).... Applicant

Versus

- 1) Government of Maharashtra, through)
Additional Chief Secretary, Revenue &)
Forest Department, Mantralaya, Mumbai 32.)
- 2) Government of Maharashtra, through)
Joint Secretary (M-1), Revenue Dept.,)
Stamps & Registration, Mantralaya,)
Mumbai – 400 032.)
- 3) Government of Maharashtra, though)
Principal Secretary, General Admn. Dept.)
Mantralaya, Mumbai 400 032.)....Respondents

Shri M. D. Lonkar, learned Advocate for the Applicant.

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

CORAM : SHRI A.P. KURHEKAR, MEMBER(J)

DATE : 01.10.2020.

JUDGMENT

1. During the course of hearing, Shri M.D. Lonkar, learned Counsel for the Applicant as well as Shri A. J. Chougule, learned Presenting Officer for the Respondents proposed that in view of Affidavit filed by the Respondent No.1

in O.A.No.1102/2019 (Rajendra Patil V/s State of Maharashtra) pending before the Aurangabad Bench of Maharashtra Administrative Tribunal, this O.A. can be disposed of by suitable direction.

2. The Applicant belongs to Registration Department and by order dated 21.08.2019, he is promoted as Deputy Inspector General of Registration, Latur which was vacant at the relevant time. In O.A., his main grievance is that the Respondents are not following the recruitment rules called "The Registration Department (Deputy Inspector General of Registration, Sub-Registrar, Bombay, etc.) Recruitment Rules, 1979 which *inter-alia* provides that appointment to the post of Deputy Inspector General Registration shall be either by promotion of a suitable Joint District Registrar or Personal Assistant to the Inspector General of Registration or Assistant Inspector General of Registration or Administrative Officer, Government Photo Registry who has put in not less than five years in Class-2 (Gazetted post) in the Registration Department or by transfer of the Sub-Registrar, Bombay or of a person in the Cadre of Deputy Collector in Revenue Department. His another contention is that the Respondents are not following the ratio of promotion in terms of Circular dated 18.09.1996 which *inter-alia* provides that at the time of promotion to the post of Deputy Inspector General and Deputy Controller of Stamps, the ratio of promotion of the officer from Registration Department and from Revenue Department shall 3:1.

3. Indeed, the issue of non observance of Circular dated 18.09.1996 and Rule has been finalised in terms of the decision rendered by this Tribunal in **O.A.No.164/2006 (Shri Ankush Devgunde V/s State of Maharashtra)** decided on 11.10.2006 while allowing the O.A. following directions were issued by the Tribunal :-

- “1. That the respondents are directed only to promote or appoint by transfer to the post of Inspector General of Registration from the categories mentioned in amended rule 3(a) r/w circulars and from none else and the ratio prescribed for each category must be maintained in any circumstances.
2. Any appointment than the prescribed ratio as per the circular dated 18.09.1996 in excess quota from the cadre of Deputy Collector, Revenue Department declared illegal. The Deputy Collector so appointed in excess of the prescribed quota shall be repatriated to the parent department and that vacant post must be filled in by considering a candidate as referred to in clause (a) of amended rule 3 i.e. from Registration Department.
3. This exercise shall be completed on or before 31.12.2006.”

4. Thereafter, Contempt Application No.04/2007 in O.A. No.164/2006 with 2 others was filed, which was disposed of by the Tribunal on 19.10.2007 with following order :-

“ Thus, from these facts, we cannot attribute any deliberate attempt or intention to the respondent in non complying with the orders passed by this Tribunal. We are satisfied that there is substantial and faithfully compliance of the orders passed by this Tribunal and the respondents are taking right steps to comply with remaining part of the order. As such, we hope and trust that respondents will comply the orders, if remained to be complied with the earliest, so that the applicants who have succeeded before this Tribunal may reap the fruit of the order and shall have no grievance or opportunity to approach this Tribunal for the same relief or purpose again. With these observations, we dispose of all the three Contempt Applications.”

5. Now, coming to the grievance of the Applicant as rightly pointed out by the learned Counsel for the Applicant while giving posting to the Applicant at Latur, the G.A.D. had given approval as temporary arrangement with directions to the department to follow the rules and ratio and further directed that the officers in the cadre of Deputy Collector who have on deputation in Registration Department should be recalled so that the deserving officers from the Registration Department should get promotion in terms of ratio laid down in Circular.

6. The grievance of the Applicant in O.A. is about non observance of the directions given by the Tribunal in O.A.No.164/2006 and without giving any thought to the Revenue Division Allotment for appointment by nomination or promotion to the post of Group-A and Group-B “Gazetted and Non-Gazetted” of Government of Maharashtra Rules, 2015”, and he has been unilaterally posted at Latur without calling options in terms of ratio of 3:1 and in terms of Cadre Allotment Rules, 2015 for getting division as per his eligibility. That time options were called without considering ratio and position of vacancy in terms of Recruitment Rules.

7. Incidentally, the issue of promotion to the post of Deputy Inspector General and Deputy Controller of Stamps from the cadre of Joint Registrar, Registration Department is in the issue in O.A.No.1102/2019 pending before the Aurangabad Bench of M.A.T. In that O.A. also the issue was pertaining to non observance of Recruitment Rules and Circular which laid down the ratio of 3 : 1. In O.A.No.1102/2019, the State of Maharashtra through Raviraj Phalle, Deputy Secretary in the office of Revenue and Forest Department, Mumbai has filed the Affidavit. In Para No.9, it is stated as follows :-

“9. As regards to the contents of Para No.8 of the Original Application, I say and submit that the Departmental Promotion Committee meeting for promotion from the Joint District Registrar, Class-1 on the post of Deputy Inspector General and Deputy Controller of Stamps was initially scheduled on 23rd March 2020. Due to pandemic situation of covid-19 the meeting was extended. The proposal of promotion of the Deputy Inspector General and Deputy Controller of Stamps is going to put before the Departmental Promotion Committee by rotation. As a result, the grievance of the applicants will get resolved as per rules.”

8. Thus, what transpired that the Respondent No.1 now proposed to hold the DPC soon wherein the issue of maintaining the ratio in terms of decision rendered by this Tribunal in **O.A.No.164/2006** will be resolved.

9. It would not be out of place to mention here that the Respondents in their Affidavit-in-Reply does not dispute that they required to maintain the ratio of 3: 1. In this behalf, Para No.6.2 of reply is material which is as under:-

“6.2 Thus there is provision for appointment on the post of Deputy Inspector General and Deputy Controller of Stamps by transfer of a person in the cadre of Deputy Collector. As per Government Circular No.-30/88/88433/C.R.No.544/M-1 dated 18.09.1996, the quota has been prescribed for the posts on promotion from the officers of the Registration and Stamps Department vis-à-vis Deputy Collector on transfer in the ratio of 3:1 (copy of which is already annexed and marked as Exhibit-G to the present O.A.). Accordingly out of current cadre strength, 8 posts in the cadre of Deputy Inspector General and Deputy Controller of Stamps are to be filled by promotion and 2 posts by transfer of Deputy Collectors.”

10. The Applicant was promoted by order dated 21.08.2019. He was given posting at Latur on vacant post. Admittedly, that time, options in terms of ratio and in terms of Cadre Allotment Rules, 2015 were not called. This being the position, now in view of the proposed meeting of DPC and reply filed by the Respondents, they seem to be taking remedial measures so as to maintain the ratio in terms of rules which they are infact bound to follow in view of the decision rendered in **O.A.No.164/2006**.

11. In the present O.A., the Applicant seeks allotment in Pune Division in consonance with Division Cadre Allotment Rules, 2015. Learned Counsel for the Applicant fairly concedes that he is not insisting for any particular division and all that prayed that the options be called in terms of Division Allotment Rules, 2015 and ratio and division be allotted as per entitlement of the Applicant. This is very fair and reasonable submission.

12. In view of above, Original Application deserves to be disposed of with direction that the Departmental Promotion Committee in its meeting schedule soon should also consider to call options of the Applicant in terms of Division Cadre Allotment Rules, 2015 by maintaining ratio of 3 : 1 and shall allot the division to the Applicant as per his entitlement in Rules, 2015.

13. Above exercise shall be completed within three months from today.

14. No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Place : Mumbai
Date : 01.10.2020
Dictation taken by : VSM
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