

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**MUMBAI BENCH**

**ORIGINAL APPLICATION NO 931 OF 2015**

**DISTRICT : PUNE**

Dr (Smt) Santoshi P. Shinde, )  
Working as Medical Officer, Class-II )  
Transferred to Sassoon General )  
Hospital, Pune. R/o: Popular House )  
Opp. Milk Centre, Ganesh Peth, )  
Pune-4. )  
Add for service of notice )  
R/o: Popular House, Opp Milk Centre )  
Ganesh Peth, Pune-4. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through Principal Secretary, )  
Public Health Department, )  
Having office at Mantralaya, )  
Mumbai 400 032. )
2. The Director of Health Services )  
[M.S], Mumbai. )  
Having office at Aarogya Bhavan )  
In the campus of St. Georges )

22

- Hospital, P.D Mello Road, )  
 Mumbai 400 001. )
3. The State of Maharashtra, )  
 Through Principal Secretary, )  
 Medical Education & Drugs Dept )  
 Having office at Mantralaya, )  
 Mumbai 400 032. )
4. The Director of Medical Education )  
 & Research, [M.S], Mumbai. )  
 Having at Government Dental )  
 College and Hospital Bldg, )  
 4<sup>th</sup> floor, St. Georges Hospital )  
 Campus, Mumbai 400 001. )...**Respondents**

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

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

Shri D.B. Khaire, learned Special Counsel for Respondents no 3 & 4.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

**DATE** : <sup>15.</sup> ~~16~~.02.2016

**ORDER**

1. Heard Shri Shri A.V Bandiwadekar, learned advocate for the Applicant, Shri A.J Chougule, learned

Presenting Officer for the Respondents and Shri D.B. Khaire, learned Special Counsel for Respondents no 3 & 4.

2. This Original Application has been filed by the Applicant, seeking implementation of the order of transfer dated 31.5.2015 posting her at Sassoon Hospital, Pune. Though Sassoon Hospital, Pune is controlled by the Respondent nos 3 & 4, there are posts which are on the establishment of the Respondent nos 1 & 2. The Respondent no. 2 was well within his powers to post the Applicant in the vacant post of Medical Officer at Sassoon Hospital, Pune.

3. Learned Special Counsel Shri D.B Khaire argued on behalf of the Respondent nos 3 & 4 that this issue has already been decided by this Tribunal by order dated 23.12.2015 in O.A no 792 of 2015. In that Original Application also, many Applicants on the establishment of Public Health Department, who were transferred by the same order dated 31.5.2015 by the Respondent no. 2 to the posts in the hospitals under the control of the Respondents no 3 & 4 had sought similar reliefs. This Tribunal has dismissed the aforesaid Original Application no. 792 of 2015 on the ground that order dated 31.5.2015 was issued in contravention of a Cabinet decision. Learned Special Counsel argued that this

lh

Original Application may also be dismissed on the same ground.

4. It is seen that no affidavit in reply has been filed in the present Original Application on behalf of the Respondents no 1 & 2. The position of the Respondent nos 3 & 4 is that a Cabinet decision has already been taken to convert posts in the hospitals under their control, which were on the establishment of Public Health Department, to cater to the need of new departments which are proposed to be created in Medical Colleges. As such, there are no vacancies in which the persons like the present Applicant can be accommodated. This issue has already been decided by this Tribunal by order dated 23.12.2015 in O.A no 792 of 2015. This Tribunal has already refused to intervene in the matter of implementation of transfer order dated 31.5.2015.

5. This Original Application is, therefore, dismissed with no order as to costs.

Sd/-

**(Rajiv Agarwal)**  
**Vice-Chairman**

**Place : Mumbai**  
**Date : 15.02.2016**  
**Dictation taken by : A.K. Nair.**