

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1169/2022 WITH
C.A. Nos. 235 & 321/2023 (S.B.)

Prabhudas S/o Punayya Sadamwar,
Aged about 52 years, Occ. Service,
R/o Near District Central Cooperative Bank,
Gadchiroli.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Department of Tribal Development,
Mantralaya, Mumbai- 32.
- 2) The Commissioner,
Tribal Development,
Gadkari Chowk,
Old Agra Road,
Nashik.
- 3) The Additional Tribal Development Commissioner,
Giripeth, Opposite R.T.O.,
Nagpur.
- 4) The Project Officer,
Integrated Tribal Development Project,
Near L.I.C. office,
Gadchiroli.

Respondents

Shri P.D.Meghe, Id. Advocate for the applicant.

Shri M.I.Khan, Id. P.O. for the Respondents.

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGMENT

Judgment is reserved on 07th Aug., 2023.

Judgment is pronounced on 11th Aug., 2023.

Heard Shri P.D.Meghe, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the Respondents.

2. By order dated 19.05.2018 (A-8) the applicant who was holding the post of High School Teacher was transferred on a temporary basis as Assistant Project Officer, Aheri. On 19.08.2022 the first impugned order (A-1) was passed relevant details of which are as follows:-

“सरनामा क्रमांक २ च्या आदेशान्वये माध्यमिक शिक्षक संवर्गातून श्री सदमदार व श्री. घोटकर यांची सहाय्यक प्रकल्प अधिकारी (शिक्षण) या पदावर तात्पुरत्या स्वरूपात बदलीने पदस्थापना दिलेली आहे.

एकात्मिक आदिवासी विकास प्रकल्प, गडचिरोली येथे सहाय्यक प्रकल्प अधिकार (शिक्षण) या पदावर कार्यरत असलेले श्री. सदमदार यांच्या विरुद्ध डॉ. रामकृष्ण हरिजी मडावी, माजी विधानसभा सदस्य आरमोरी, जि. गडचिरोली यांनी दिनांक ३१ जुलै २०२२ व ०८.०८.२०२२ च्या पत्रान्वये तक्रार अर्ज आयुक्तालयास सादर केलेला आहे. सदर तक्रार अर्जात श्री. सदमदार हे गणित विषयाचे शिक्षक आहे. गणित विषय हा मुलाच्या दृष्टीने महत्वाचे असताना तसेच गणित शिक्षक मुळातच कमी आहेत तसेच ते दिनांक ५.८.२०२२ रोजी शाळा दौ-यावर असतांना मघपान करित असल्याचे देखील या कार्यालयास निदर्शनास आणून दिलेले आहे. त्यामुळे त्यांची बढती करून मुळ पदावर पाठविणे बाबत विनंती केलेली आहे.

यास्तव सरनामा क्र.१ च्या प्राप्त अधिकारान्वये आयुक्त, आदिवासी विकास, महाराष्ट्र राज्य, नाशिक हे घोटकर व श्री. सदमदार यांची बदलीने केलेली सहाय्यक प्रकल्प अधिकारी (शिक्षण) या पदावर केलेली नियुक्ती करण्यात येत असून त्यांना त्यांच्या मुळ माध्यमिक शिक्षक पदावर पदस्थापना देण्याबाबत अपर आयुक्त आदिवासी विकास, नागपूर यांनी कार्यवाही करावी.”

On 24.11.2022 the other impugned order (A-14) was passed cancelling appointment of the applicant as Assistant Project Officer, and posting him at Markandadeo School (Gadchiroli).

3. The applicant has raised following contentions:-

A. In the impugned order adverse observations were made against the applicant. No opportunity was given to the applicant to put forth his case as no show cause notice was issued.

B. While accepting the assignment of Assistant Project Officer the applicant had given up on immediate prospects of his promotion to the post of Headmaster and if he is now reverted to the post of High School Teacher it will mean loss of grade pay.

C. The impugned order would indicate that it was founded on a complaint and hence action could have been taken strictly as per clause 6 of order dated 19.05.2018 (A-8).

4. The applicant has relied on Clause 6 of order dated 19.05.2018 which reads as under:-

“६. सहाय्यक प्रकल्प अधिकारी (शिक्षण) या पदावर बदलीने नियुक्ती केलेल्या कर्मचा-याच्या कामकाजाबाबत वारंवार गंभीर स्वरूपाच्या तक्रारी /निवेदन प्राप्त झाल्यास त्याची शहानिशा करून संबंधीत अधिकारी दोषी आढळल्यास त्याला कोणतेही कारण न देता मुळ पदावर पाठविण्यात येईल.”

5. The respondents, on the other hand, have relied on Clauses 2 & 7 of order dated 19.05.2018 which read as under:-

“२. तसेच सहाय्यक प्रकल्प अधिकारी (शिक्षण) पदावर पदोन्नतीची कार्यवाही नसून तात्पुरत्या स्वरूपात कामाची व्यवस्था आहे त्यामुळे सहाय्यक प्रकल्प अधिकारी (शिक्षण) या पदावर कोणताही हक्क सांगता येणार नाही. या पदाची सेवा जेष्ठता ठेवण्यात येणार नाही.

७. वरील अटी व शर्ती मान्य असल्या बाबत संबंधीत अधिका-याचे हजर होण्यापूर्वी संबंधीत कार्यालयाने रक्कम रुपये १००/- स्टॅम्प पेपरवर करारनामा करून घ्यावा तदनंतरच सदर अधिका-यास हजर करून घ्यावे.”

6. It is a matter of record that before passing either of the impugned orders show cause notice was not issued to the applicant. The impugned order dated 19.08.2022 shows that the reason behind passing the same was alleged conduct of the applicant which was found to be highly objectionable. The other impugned order dated 24.11.2022 was passed on the basis of impugned order dated 19.08.2022. The applicant does not dispute that he had agreed to abide by the terms and conditions attaching to order dated 19.05.2018. Though the posting of the applicant as per order dated 19.05.2018 was temporary in nature terminable at any stage without assigning any reason, the posting could not have been terminated in a manner attaching stigma without giving the applicant an opportunity of hearing. Such opportunity was not given. Hence the impugned orders dated 19.08.2022 (A-1) and 24.11.2022 (A-14) cannot be sustained.

7. The applicant has also set out a case that the impugned action against him was actuated by one false complaint made by an Ex-M.L.A. and this complaint was made because on account of visit of the applicant to the school run by said Ex-M.L.A. action of derecognition of said school was taken. In view of conclusion reached as above about both the impugned orders being not sustainable, these allegations of malafides need not be gone into.

8. The applicant has filed civil application no. 321/2023 seeking direction to respondent no. 4 to release his salary for the period of 24.11.2022 to 01.07.2023 for the post of A.P.O. (Edu) with further direction to go on paying salary as per pay scale of A.P.O. during pendency of this O.A.. Since the O.A. is being disposed of by this judgment the C.As., too, will have to be disposed of. Hence, the order:-

ORDER

- A. The impugned orders dated 19.08.2022 (A-1) and 24.11.2022 (A-14) are quashed and set aside.
- B. The applicant would be at liberty to submit an application before respondent no. 4 for releasing his unpaid salary.
- C. The O.A. is allowed in these terms and C.As. stand disposed of.
- D. No order as to costs.

(Shri M.A.Lovekar)
Member (J)

Dated :- 11/08/2023.
aps

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 11/08/2023.
and pronounced on

Uploaded on : 17/08/2023.