

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.12/2016.

Ashok Sonuji Narnaware,
Aged about 53 years,
Occ- Stenographer,
R/o Baba Santosh Palace No.4,
Nagpur-17.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Revenue & Forests,
Mantralaya, Mumbai-32.
2. The Divisional Commissioner,
Nagpur Division, Nagpur.
3. The Collector,
Nagpur.
4. Smt. Sanjivani Dinesh Meshram,
Aged-Major, Occ- Stenographer,
EGS Section, Office of Collector,
Nagpur.

Respondents.

Shri G.N. Khanzode, Ld. counsel for the applicant.
Shri P.N. Warjekar, P.O. for the respondent Nos. 1 to 3.
Shri S.M. Bhangde, Ld. counsel for respondent No.4.

Coram:- B. Majumdar, Vice-Chairman

Dated:- 11th March, 2016.

Order

The applicant is a Stenographer who has filed this
O.A. challenging his transfer to Gondia.

2. The applicant, while posted at Wardha, on 25.1.1990 was terminated from service following a departmental enquiry conducted against him. He was reinstated on 27.7.2000 subject to outcome of the criminal case registered against him and undergoing the punishment of withholding of one increment for five years. The applicant was then transferred to Nagpur. On 29.6.2015, he was placed under suspension following allegations of racketeering in processing of applications under the Maha-E Scheme. On 3.7.2015, Smt. Sanjivani Dinesh Meshram (R.4) was transferred from Gondia to Nagpur on her request. On 1.10.2015, Hon'ble Minister of State (Revenue) decided the applicant's appeal against the order of suspension and directed that he is to be reinstated and posted against any non functional post by Collector, Nagpur (R.3). On 7.10.2015, the above order was communicated to respondent Nos. 2 and 3 as well as Collector, Wardha. On 17.10.2015, respondent No.2 issued an order as follows:

- (a) As the applicant's order of suspension has been cancelled he is reinstated in service.
- (b) His services from the date of suspension, i.e., 29.6.2015 is to be treated as duty for all purposes.
- (c) Respondent No.3 should issue an order at his level posting the applicant against a non functional post involving no financial issues.

3. On 19.10.2015, respondent No.3 informed respondent No.2 that no vacant post of stenographer is available in his establishment. On 3.12.2015, respondent No.2 issue an order which states that the services of the applicant are being temporarily put at the disposal of the Collector, Gondia and as and when a post is available in the establishment of Collector, Wardha, he will take action to post him accordingly. The applicant has challenged this order in the O.A.

The applicant submits as follows:-

- (a) The order of the Hon'ble Minister of State (Revenue) dated 1.10.2015 deciding his appeal states that on reinstatement he is to be posted by Collector, Nagpur (R.3) i.e., in the Nagpur District.
- (b) The Hon'ble Minister of State (Revenue) on 14.12.2015 issued further directions to respondent No.2 to post the applicant on medical ground at Nagpur Rural, Katol or Ramtek.
- (c) Since the entire case of departmental enquiry against the applicant has been closed by the Government as per communication dated 29.10.2015 of respondent No.2 to respondent No.3, there exists no reason or ground to deny the applicant a posting in the Nagpur District.

(d) His health condition due to cardiac and orthopedic problems does not permit him to be posted in Gondia.

4. The Divisional Commissioner, Nagpur (R.2) in his reply submits as follows:

(a) When the applicant was under suspension, Smt. Sanjivani Dinesh Meshram (R.4) requested for her transfer to Nagpur on medical ground. This was granted and she was posted at Nagpur on 3.7.2015.

(b) In the Nagpur Division, out of 20 posts of Stenographers, only 2 posts are vacant and both are at Gondia.

(c) The applicant's representation dated 11.12.2015 was considered and it was observed that his health grounds are not substantiated and he was told that his representation was rejected.

(d) There is no mention in the Government order dated 17.12.2015 that the applicant should be posted in Nagpur only.

5. Respondent No.4, Smt. Sanjivani Dinesh Meshram, in her reply submits that she had joined at Nagpur before the applicant was reinstated. She has several compelling reasons to request for a posting at Nagpur, one of them being that her younger

son is suffering from sickle cell disease for which treatment is available only at Nagpur.

6. Shri G.N. Khanzode, the learned counsel for the applicant in his presentation relied on the above order of the Hon'ble Minister of State for Revenue that the applicant should be posted in Nagpur Division. As respondent No.4 was posted to Nagpur due to suspension of the applicant. Hence, to implement the above order of the Minister, she should have been posted back to Gondia.

7. Shri S.M. Bhangde, the learned counsel for respondent No.4 and Shri P.N. Warjekar, the learned P.O. for respondent Nos. 1, 2 and 3 generally reiterated the submissions made by these respondents.

8. After going through the submissions made on both the sides as well as the record placed before me, I find that it is undisputed that when the applicant was reinstated as per Government order dated 7.10.2015 and the order dated 17.10.2015 of respondent No.2, the only vacancies in the post of Stenographer were available at Gondia. It is true that vide the above order of Hon'ble Minister of State for Revenue as well the Government, the applicant was directed to be posted against a non functional post in the Nagpur District. However, such a posting will obviously be subject to availability of a vacant post in the Nagpur District, which

was not the position as seen above. There are also no orders to create such a vacancy to accommodate the applicant by transferring out an incumbent to that post including respondent No.4. Thus, I find no reason to intervene in the order of respondent No.2 posting the applicant to Gondia subject to availability of a vacancy in future at Wardha. The O.A. is therefore devoid of merit and stands rejected.

No order as to costs.

sd/-
(B.Majumdar)
Vice-Chairman

pdg