

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT NAGPUR.

ORIGINAL APPLICATION NO. 146 OF 2009

DIST. : GADCHIROLI.

Vaishali D/o Bhaurao Gohatre
Aged 33 years, Occupation-service,
Tribal Development Inspector-
Bhamragadh,
In-charge – Warden Girls Hostel
Yetapalli, R/o. Tah-Yetapalli,
Dist. Gadhachiroli

VERSUS

1. State of Maharashtra,
Through Secretary
Department of Tribal Development,
Mantralaya, Mumbai.
 2. Addl. Commissioner,
Tribal Development Giripeth,
Nagpur.
 3. Director/Reconstruction Commissioner
Tribal Development of Maharashtra
State, Nashik, District – Nashik.
 4. Project Officer,
Integrate Tribal Development Project,
Tah – Chimur, District Chandrapur.
 5. Project Officer
Integrate Tribal Development Project
Tah – Bhamragadh,
District – Gadhachiroli.
 6. Project Officer
Integrate Tribal Development Project
Tah – Aheri, District – Gadhachiroli.
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7. Shri. Vasant Laxmanrao Akinwar,
Office Superintendent Tribal Project
Office, Bhamragadh, Dist. Gadhachiroli.

8. Shri. Madhav Zade,
Caste Verification Office,
A.T.C. Amaravati,
Dist. Amaravati.

.. RESPONDENTS.

APPEARANCE :- Shri Swapnil Pathak, learned
Advocate for the Applicant.

: Shri H.K. Pande, learned Presenting
Officer for the Respondent Nos. 1 to
6.

: None appears for respondent Nos. 7
& 8.

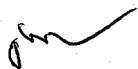
CORAM : **HON'BLE SHRI RAJIV AGARWAL,**
VICE CHAIRMAN
AND
HON'BLE SHRI J.D. KULKARNI,
MEMBER (J)

J U D G E M E N T

[Per : Member (J)]

[Delivered on this 13^{February} th day of ~~January~~, 2017]

1. The applicant was appointed to the post of Tribal Development Inspector at Chimur District Chandrapur on 26.9.2000. On 12.2.2003 she was entrusted and given charge of Girls Hostel Warden. Vide order dated 25.5.2006 the applicant was promoted to the post of Office




Superintendent and was posted at Integrate Tribal Development Project, Aheri. While the applicant was appointed and posted at Integrate Tribal Development Project at Chimur, the respondent Nos. 8 & 9 tortured and harassed her for one reason or other. The applicant, therefore, reported the said incident to the higher authorities i.e. respondent Nos. 2 & 3, but no cognizance was taken. In 2006 respondent Nos. 8 & 9 sent adverse remarks of the applicant and made false allegations against the applicant. The applicant was, therefore, reverted on the original post of Tribal Development Inspector and she was posted as Tribal Development Inspector and the respondent No. 7 viz. Shri. Vasant Laxmanrao Akinwar, was promoted in her place as Office Superintendent on 19.6.2007. Vide impugned order dated 17.4.2007 the applicant was reverted at her original post as Tribal Development Inspector without initiating any enquiry and without giving an opportunity. The said action is illegal.

2. The applicant has claimed that the order dated 17.4.2007 issued by the respondent No. 2, whereby the



applicant has been reverted to the post of Tribal Development Inspector be quashed and set aside and similarly the order of promotion in respect of respondent No. 7 to the post of Office Superintendent issued by respondent No. 2 be quashed and set aside and the applicant be reinstated and promoted to the post of Office Superintendent. The applicant is claiming direction to the respondent Nos. 2 and 3 to pay the pay scale of promoted post to the applicant, and hence, this Original Application.

3. Respondent No. 2 tried to justify the reversion order. It is submitted that the respondent No. 7 is senior most in the cadre of Deputy Accountant and passed the departmental examination (1998) prior to the applicant and he also belongs to NT category. As against this, the applicant passed the departmental examination in the year 2001 and, as such, the applicant is junior to the respondent No. 7, and therefore, the applicant was reverted to the post of Tribunal Development Inspector vide order dated 17.4.2007 and the respondent No. 7 was promoted as Office Superintendent and was posted in



place of the applicant. It is stated that in the seniority list the respondent No. 7 shown at Sr. No. 43; whereas the applicant is shown at Sr. No. 44, and therefore, the applicant's case has no merit.

4. We have heard Shri Swapnil Pathak - learned Advocate for the applicant and Shri H.K. Pande - learned Presenting Officer for respondent Nos. 1 to 6. We have also perused the impugned order, affidavit, affidavit in reply and various documents placed on record by the learned Advocates for the respective parties.

5. According to the learned Advocate for the applicant, applicant has been reverted to the post of Tribal Development Inspector vide impugned order dated 17.4.2007 issued by respondent No. 2 viz. Addl. Commissioner, Tribal Development Giripeth, Nagpur. The said impugned order reads as under: -

“आदेश

**नगपुर प्रादेशिक विभागातील उपलेखापाल / आदिवासी विकास
निरिक्षक पदावरील कर्मचा-यांना जेष्ठतेचे अधिन राहुन विहित अटीवर**

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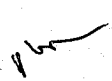
कार्यालय अधिक्षक पदावर सरनामा क्रमांक 9 चे आदेशान्वये अत्यंत तात्पुरत्या स्वरूपात पदोन्नती देण्यात आली.

स्वरूपात आदेशातील प्रकल्प कार्यालय अहेरी येथे कार्यालय अधिक्षक पदावर पदोन्नती देण्यात आलेल्या कु. व्ही.बी.गोहत्रे, आदिवासी विकास निरिक्षक यांचे पदोन्नती बाबत आक्षेप/हरकती प्राप्त झाल्या त्यानुसार कु. गोहत्रे ह्या सेवानेष्ठतेत कनिष्ठ ठरत असल्याने उक्त कु. गोहत्रे यांना त्यांचे मुळ आदिवासी विकास निरिक्षक पदावर पदावनत करण्यात येत असुन त्यांची पदस्थापना प्रकल्प कार्यालय भामरागड येथील रिक्त असलेल्या आदिवासी विकास निरिक्षक पदावर याद्वारे करण्यात येत आहे.

आदेशाची अंमलबजावणी तात्काळ करण्यात यावी.”

6. The learned Advocate for the applicant submits that the said order has been issued without giving an opportunity to the applicant. It seems that no show cause notice was served on the applicant asking as to why she shall not be reverted from the post of Office Superintendent to the post of Tribal Development Inspector and all of a sudden the impugned order of reversion has been passed. The only reason for reversion of the applicant, as shown in the impugned order is that she was promoted though she was junior and since some complaints/objections were received for her promotion.



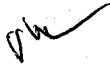
7. The learned Presenting Officer submits that in the appointment order itself, it has been mentioned that in case some complaints/objections are received, the applicant will be reverted.
8. We have perused the appointment order dated 25.5.2006, a copy of which is placed on record at page-22 of the paper book (Annexure 'A-4'). Even though it has been mentioned in the appointment order that the order may be cancelled, in case some negative remarks are received and found to be correct, that itself will not mean that the employee can be reverted without giving any opportunity to him/her.
9. In the present Original Application, we are satisfied that before issuing impugned reversion order, no show cause notice was issued to the applicant and, therefore, she was not given opportunity to explain as to why she shall not be reverted. We are, therefore, satisfied that no principles of natural justice have been followed while reverting the applicant. The impugned order of reversion
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is, therefore, absolutely illegal and cannot sustain in the eye of law.

10. Respondent No. 7 has been promoted in place of the applicant, but respondent No. 7 has not filed any reply affidavit. We are not inclined to pass any remarks as to whether the respondent No. 7 is senior or not to the applicant and leave it to Respondent Authorities to take decision in this regard. We feel that it will be in the interest of justice and equity to set aside the impugned order of reversion of the applicant. Hence, we pass the following order: -

ORDER

- (i) The present Original Application is partly allowed.
- (ii) The impugned order of reversion dated 17.4.2007 of the applicant issued by respondent No. 2 is quashed and set aside.
- (iii) The applicant shall be allowed to continue to work on the promotional post i.e. Office Superintendent.



- (iv) It seems that the applicant was reverted and there is nothing on record to show that she worked on the promoted post even after reversion since the date of reversion. In view of this, the applicant will be entitled to seniority in the promotional cadre and not the arrears of pay as claimed by her in the present Original Application.
- (v) Accordingly, the present Original Application stands disposed of with no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)

O.A.NO. 146-2009(hdd)-2017 (reversion)-Nagpur