

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 610 / 2018 (D.B.)**

APPLICANT : Shri Nitin s/o Rajendra Patil
(Rindhe)
Aged about 28 years, Occu.: Service,
R/o Tandulwadi, Post Kolwad, Tahsil and
District Buldana.

-VERSUS-

- RESPONDENTS** : 1. The State of Maharashtra,
Through its Secretary (Revenue), Revenue &
Forest Department, (E-7), Mantralaya, Mumbai-
400032.
2. The Divisional Commissioner, Amravati, (Food &
Civil Supply Department), Bypass Road Camp,
Amravati, Tahsil and District Amravati.
3. The Collector, Buldana.
(Food & Civil Supply Department), Collector
Office, District Buldana.
4. District Civil Supply & Food Officer,
Office of in the Campus of District Collector
Office, Buldana, Tahsil and District Buldana.
5. The Tahsildar Motala, Tahsil Office,
District Buldana.
6. Shri Ramesh s/o Rambhau Wadhawe,
Office of Tahsil Office Mehkar (Civil Supply &
Food Department) Tahsil Mehkar, District
Buldana.

7. Shri Amol s/o Prakash Bahekar,
Tahsil Office Malkapur (Civil Supply & Food
Department) Tahsil Malkapur, District Buldana.
8. Shri Bhimrao Shyamrao Jumade,
Aged Major, Occu.: Service,
Office of Civil Supply & Food Inspector, Tahsil
Office Buldana, District Buldana.
9. Shri Sunil Kumar Kisanrao Zalte,
Aged Major, Occu.: Service,
Office of Civil Supply & Food Inspector, Tahsil
Office Chincholi, District Buldana.
10. Smt. Seema Murlidhar Kale,
Aged Major, Occu.: Service,
Grain Purchase Inspection Office, Tahsil Office
Malegaon, District Washim.
11. Smt. Sheela Vishwas Nikas,
Aged Major, Occu.: Service,
Avval Karkoon, Tahsil Office Manora,
District Washim.
12. Shri Rupesh Bhaudas Vaghulikar,
Aged Major, Occu.: Service,
Avval Karkoon, Tahsil Office Malegaon, District
Washim.

13. Shri Shatrugna Motiram Chauhan,
Aged Major, Occu.: Service,
Civil Supply & Food Inspection Office, Tahsil
Office Pusad, District Yavatmal.
14. Bismillah Gulab Tadavi,
Aged Major, Occu.: Service,
Avval Karkoon, Tahsil Office Mangrulpir, District
Washim.
15. Nitin Gopinath Ingale,
Aged Major, Occu.: Service,
District Civil Supply Office, Buldana,
District Buldana.
16. Shri Ramrao Mahadeorao Thakre,
Aged Major, Occu.: Service,
Tahsil Office, Sangrampur (Civil
Supply), District Buldana.
17. Shri Ramesh Annabhau Shinde
Aged Major, Occu.: Service,
District Civil Supply Office, Buldana,
District Buldana.
18. Shri Gajanan Dattatraya Sonar,
Aged Major, Occu.: Service,
Tahsil Office, Lonar (Civil Suppy),
District Buldana.

Shri A.P.Sadavarte, Id. counsel for the applicant.

Shri H.K.Pande, Id. P.O. for the respondent nos. 1 to 5.

Shri S.N.Gaikwad, Id. counsel for the respondent no. 7.

**Coram :- Hon'ble Shri Shree Bhagwan, Vice Chairman &
Hon'ble Shri Justice M.G.Giratkar, Member (J)**

JUDGMENT

Judgment is reserved on 06th January, 2022.

Judgment is pronounced on 18th January, 2022.

Per : Member (J).

Heard Shri A.P.Sadavarte, Id. counsel for the applicant and Shri H.K.Pande, Id. P.O. for the Respondent nos. 1 to 5 and Shri S.N.Gaikwad, the Id. counsel for the respondent no. 7. None for other respondents.

2. The present original application is filed for the following relief:-

“(i) Quash and set aside the impugned communication dated 23.10.2017 (A-9) passed by respondent no. 3 and also quash and set aside the impugned order dated 20.07.2018 (A-12) and thereby appointing-posting the respondent nos. 6 & 7 and in the Civil Supply and Food Department of respondent no. 3.

(i-a) Quash and set aside the impugned order dated 20.07.2018 (A-12) and thereby declare that the posted-appointed respondent nos. 6 to 18 in the Civil Supply and Food Department by the respondent no. 3 is without observance of any Recruitment Rules, Government Resolution and without any authority of Law.

(ii) Direct the respondent nos. 2, 3 & 4 to consider the candidature of the applicant in the process of appointment-cum-posting in Civil Supply and Food Department of respondent nos. 2, 3 & 4.

(iii) Direct the respondents to consider the representation dated 25.06.2018 (A-11) made by applicant and consider the candidature of the applicant for appointment in the Civil Supply and Food Department of respondents.

(iv) Grant any other reliefs, which will be deemed fit and proper in the facts and circumstances of the case."

3. The case of the applicant in short is as follows :-

The applicant has applied for the post of Clerk-Cum-Typist as per advertisement issued by respondent no. 3 i.e. Collector, Buldana. Applicant has obtained 185 marks out of 200 marks. He was selected in final merit list. He was at Sr. No. 1 after following the due process. The applicant was given appointment by order dated 15.05.2012 as a Clerk-Cum-Typist in the office of Tahsil Office, Motala, District Buldana. It is the case of the applicant that respondent nos. 6 to 18 were also selected along with him as a Clerk-Cum-Typist, but they were given posting in the office of the Civil Supply and Food Department. It is further submitted that applicant had been given the charge of one Shri Umade in the office of Civil Supply and Food Department as per order dated 02.04.2013. Applicant has worked in the office of Civil Supply and Food Department, but in the seniority list he is not shown as an employee of Civil Supply and Food Department, therefore, he prayed to quashed and set aside the impugned order dated 20.07.2018 by which the respondent nos. 6 to 18

are posted in the Civil Supply and Food Department by the respondent no. 3 without observance of Recruitment Rules.

4. The respondent nos. 3 and 4 filed reply and strongly objected the application. It is submitted that the post of Clerk-Cum-Typist and Peon were advertised and as per the advertisement, written examination was conducted. The applicant and others were appointed by the Collector, Buldana by order dated 15.05.2012 in the appointment order itself, they were shown in the respective offices.

5. The applicant has not challenged the order dated 15.05.2012 immediately within 1 year, therefore, application is time barred and, therefore, it is liable to be rejected.

6. Heard Shri Adv. A.P.Sadavarte for the applicant. He has submitted that respondent nos. 6 to 18 were selected along with applicant on the post of Clerk-Cum-Typist. The respondent no. 3 has not followed the Recruitment Rules for Civil Supply and Food Department. The respondent nos. 6 to 18 were not selected as per the Recruitment Rules of Civil Supply and Food Department and, therefore, their appointments in the Civil Supply and Food Department is liable to be quashed and set aside. The Id. counsel for the applicant has submitted that the applicant got the certified copy in the year 2018 and, therefore, 3 years required to file this present original application. Hence, no question of limitation arise.

7. The Id. P.O. submitted that the applicant has not challenged the appointment order. He was temporarily given the charge of one Shri Umade in the office of Civil Supply and Food Department, who was promoted and posted at Tahsil office, Motala. The applicant never

challenged the appointment order within limitation. Hence, the original application is liable to be dismissed on the point of limitation itself.

8. The Id. P.O. has submitted that various correspondence made by the superior of the respondent no. 3 as there are various vacancies in the Civil Supply and Food Department and, therefore, the employees who are selected for Civil Supply and Food Department were given permanent appointment in that department. Accordingly, respondent nos. 6 to 18 were posted in the Civil Supply and Food Department permanently. Thereafter their seniority list is prepared.

9. It is the contention of the applicant that he was selected along with respondent nos. 6 to 18. He has worked in the Civil Supply and Food Department after taking the charge of one Shri Umade, therefore, he should be appointed in the Civil Supply and Food Department. The applicant made representation on 25.06.2018.

10. From the perusal of the advertisement filed at (A-1) it is clear that Collector, Buldana had published the said advertisement for recruitment of 57 posts of Clerk-Cum-Typist and 14 posts of Peons. The applicant and others appeared in the said examination. The applicant and respondent nos. 6 to 18 were selected as a Clerk-Cum-Typist. In the appointment order itself, the applicant was posted as a Clerk-Cum-Typist in the office of Tahsil, Motala, as per order dated 15.05.2012. The applicant accepted the said posting order and joined in the office of Tahsil office, Motala as a Clerk-Cum-Typist. One employee namely Shri Umade, who was working as a Clerk-Cum-Typist (xkne ikyd), was promoted as a Awal Karkun and he was posted in Tahsil office, Motala, therefore, the applicant was given charge of Shri Umade until further order. The applicant cannot claim that he was working in the Civil Supply and Food Department as per order

dated 01.04.2013 and hence he be posted permanently in the office of Civil Supply and Food Department.

11. The Id. P.O. has pointed out common appointment order of the applicant and others employees dated 15.05.2012 (A-14). This order shows that applicant was appointed as a Clerk-Cum-Typist and he was posted at Tahsil office Motala. The appointments of respondent nos. 6 to 18 were shown as Clerk-Cum-Typist in the Civil Supply and Food Department. The common appointment order dated 15.05.2012 was sent to all the newly selected candidates nos. 1 to 39. Applicant cannot say that this appointment order dated 15.05.2012 (A-14) was not received by him. In fact, he has received the said appointment order and joined in the office of Tahsil office, Motala as a Clerk-Cum-Typist. The applicant has not challenged the initial appointment order, therefore, now he cannot say that the appointment order of respondent nos. 6 to 18 is illegal.

12. As per the advertisement given by the Collector, Buldana, it is clear that all the selected candidates were appointed by Collector, Buldana and they were given respective postings in Tahsil Office and also in Civil Supply and Food Department. The respondent no. 3 i.e. Collector, Buldana is the appointing authority of the applicant and respondent nos. 6 to 18.

13. The applicant has relied on the order dated 02.04.2013 by which he had been given the temporary charge of Shri Umade in the Civil Supply and Food Department until further order. This order itself shows that Shri Umade was promoted as Awal Karkun and was posted in Tahsil office Motala. Hence, it is clear that employees working in Tahsil office

and in Civil Supply and Food Department are the employees of the same establishment.

14. It was noticed by the Government that posts in the Civil Supply and Food Department remain vacant and, therefore, unnecessary hardship is caused to the public and administration therefore, separate seniority list of Civil Supply and Food Department was prepared as per order dated 28.07.2018. The respondent nos. 6 to 18 along with other 5 candidates were given permanent postings in the Civil Supply and Food Department, but their designations are shown in the Tahsil office (i j o Bk fo H k k x] r g f l y d k; W k;). As per the common appointment order dated 15.05.2012. It is clear that the respondent nos. 6 to 18 were given first appointment posting as a Clerk-Cum-Typist in the (i j o Bk fo H k k x] r g f l y d k; W k;) Civil Supply and Food Department. In the same order, the applicant and some others employees were posted as a Clerk-Cum-Typist in Tahsil Office. The applicant has not challenged the first appointment order dated 15.05.2012. Now he claimed that there is a separate Recruitment Rules of Civil Supply and Food Department and respondent nos. 6 to 18 were not selected as per the said Rules. Hence, their selection/ appointments be cancelled. The respondent no. 3 i.e. Collector is the appointing authority of applicant and also respondent nos. 6 to 18. All they were selected as per advertisement dated 18.02.2012. The applicant cannot insist that he should be posted in a particular department. The Collector being an appointing authority, he may transfer any employee from one establishment to other establishment under his control. Hence, the original application is without any merit, therefore, following order is passed:-

ORDER

The Original Application stands dismissed with no order as to costs.

(M.G.Giratkar)
Member(J).
Dated :- 18/01/2022.
aps

(Shree Bhagwan)
Vice-Chairman.

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 Vice Chairman &
Hon'ble Member (J).
Judgment signed on : 18/01/2022.
and pronounced on
Uploaded on : 19/01/2022.