

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.98 OF 2018

DISTRICT : NANDED

1. Khushal B. Vishwasrao.)
Age : 48 Yrs., Occu.: Service as)
Senior Assistant in Dr. Shankarrao)
Chavan Govt. Medical College &)
Hospital, Nanded and R/o. Civil)
Hospital Campus, Vazirabad,)
Nanded, Tal. & Dist.: Nanded.)

2. Vilas N. Ingle.)
Age : 41 Yrs., Occu.: Service as)
Senior Clerk in Dr. Shankarrao)
Chavan Govt. Medical College &)
Hospital, Nanded and R/o.)
Maganpura, Nanded,)
Tal. & Dist.: Nanded.)

3. Vijayanand V. Wanje.)
Age : 40 Yrs., Occu.: Service as)
Senior Clerk in Dr. Shankarrao)
Chavan Govt. Medical College &)
Hospital, Nanded and R/o.)
Vishnupuri Govt. Campus, Old)
Quarters, Nanded,)
Tal. & Dist.: Nanded.)

4. Vijay D. Bhale.)
Age : 41 Yrs., Occu.: Service as)
Senior Clerk in Dr. Shankarrao)
Chavan Govt. Medical College &)
Hospital, Nanded and R/o.)
Pournima Nagar, Behind Amrin)

- Bakery, Nanded,)
Tal. & Dist.: Nanded.)
5. Nikhil M. Wadikar.)
Age : 41 Yrs., Occu.: Service as)
Senior Clerk in Dr. Shankarrao)
Chavan Govt. Medical College &)
Hospital, Nanded and R/o.)
Sanket Nagar, Bhavsar Chowk,)
Taroda (Kh), Nanded,)
Tal. & Dist.: Nanded.)
6. Balasaheb G. Dhawale.)
Age : 33 Yrs., Occu.: Service as)
Junior Clerk in Dr. Shankarrao)
Chavan Govt. Medical College &)
Hospital, Nanded and R/o. Vaishali)
Nagar, Taroda (Kh), Nanded,)
Tal. & Dist.: Nanded.)
-)...Applicants**

Versus

1. The State of Maharashtra.)
Through Prinicpal Secretary,)
Medical Education & Drugs Dept.,)
Mantralaya, Mumbai.)
(Copy to be served through CPO,)
MAT, Mumbai.))
2. The Director of Medical Education)
& Research, 4th Floor, Govt. Dental)
College & Hospital Building, Saint)
Georges' Hospital Campus,)
P. Dimelo Road, Fort, Mumbai - 01.)
3. The Dean.)
Dr. Shankarrao Chavan Govt.)
Medical College & Hospital Nanded,)
District : Nanded.)

4. The Dean.)
Government Medical College,)
Jalgaon, Tal. & Dist : Jalgaon.)...**Respondents**

Mr. Sham B. Patil, Advocate for the Applicants.

Mr. I.S. Thorat, Presenting Officer for Respondents.

CORAM : SHRI B.P. PATIL (MEMBER-J)

Closed on : 19.04.2018

Pronounced on : 24⁵.05.2018

J U D G M E N T

1. The Applicants have challenged the order dated 08.02.2018 issued by the Respondent No.2 – Director of Medical Education & Research, Mumbai and thereby sending the Applicants on deputation to Jalgaon from Nanded by filing the present Original Application.

2. The Applicants are Group 'C' employees working on the different posts like Senior Assistant, Senior Clerk and Junior Clerk in the Medical Education & Research Department of the Maharashtra Government and all of them are working in Dr. Shankarrao Chavan Government Medical College & Hospital, Nanded at present.

3. Applicant No.1 - Khushal B. Vishwasrao was initially appointed as Junior Clerk on 15.10.1993 in

Government Medical College & Hospital, Aurangabad. On 01.06.2004, he was transferred to Government Medical College, Nanded. On 18.08.2008, he was promoted as Senior Clerk. Thereafter, he was transferred to Government Medical College & Hospital, Ambejogai, Dist : Beed on 12.06.2015. On 26.11.2015, he was promoted as Senior Assistant and posted in Government Medical College & Hospital, Nanded and since then, he is working there. He has two School going sons studying in 2nd and 5th Standard at Nanded. He is suffering from Hypertension and other ailments.

4. Applicant No.2 - Vilas N. Ingle was appointed as Junior Clerk in Government Dental College & Hospital, Aurangabad on 21.06.2001. In July, 2003, he was transferred to Government Medical College, Nanded. He was promoted as Senior Clerk in the year 2016 and posted in Government Medical College, Nanded. His wife is serving as Junior Lecturer in Kusumtai Junior College, CIDCO, Nanded. His children are School going and taking school education in Nanded in 9th Standard and 3rd Standard. His father is 75 years old and he has to take care of his family members.

5. Applicant No.3 - Vijayanand V. Wanje was appointed as Junior Clerk on 29.11.1995 in Government Medical College & Hospital, Aurangabad. In the month of May, 1997, he was transferred to Nanded. In the year 2013, he was promoted as Senior Clerk and posted at Nanded. He has an old aged father about 85 years and mother having age

of 80 years. His daughter is studying in the College at Nanded.

6. Applicant No. 4 - Vijay D. Bhale was appointed as Junior Clerk on 13.03.2003 in B.J. Medical College, Pune from reserved category of Scheduled Caste. He was transferred to Government Dental College, Aurangabad on 01.08.2003. On 01.07.2005, he was transferred to Government medical College & Hospital, Nanded. He was promoted as Senior Clerk on 26.11.2013 and posted in Government Medical College & Hospital, Nanded. Thereafter, he was again transferred to Nanded on 19.06.2017 on his health ground. He is suffering from heart disease. He had undergone Angioplasty on 27.08.2013 and 08.09.2013. He is under medical treatment constantly. His children are School going and are studying in 9th Standard and 3rd Standard. He has to maintain his old parents also.

7. Applicant No.5 - Nikhil M. Wadikar was appointed as Junior Clerk on 18.09.2009 in Government Medical College & Hospital, Ambejogai and thereafter transferred to Government Medical College & Hospital, Nanded in December, 2013. His wife is serving as Staff Nurse in Government Medical College & Hospital, Nanded since 11.07.2014. He has a daughter of two years and he has to maintain his old parents.

8. Applicant No.6 - Balasaheb G. Dhawale was appointed as Junior Clerk on 24.11.2011 at Government Medical College, Solapur. He was transferred to Government Medical College, Nanded in November, 2013. His old parents are depending on him. The Applicant is also suffering from Hypertension.

9. It is contention of the Applicants that they are working on respective posts at Government Medical College, Nanded but all of a sudden, the Respondent No.2 issued the order dated 08.02.2018 and send them on deputation to Government Medical College, Jalgaon along with other employees of Ambejogai, Chandrapur and Gondia. It is their contention that the distance between Nanded and Jalgaon is about 450 Kms. and therefore, it is inconvenient for them. It is their contention that, in the said order, it has been mentioned that they are not entitled to Daily Allowance, Travelling Allowance and other allowances as per Rules. It was directed to relieve them immediately. It is their contention that after receiving the said order, they made representation to the Director of Medical Education and Research, Mumbai and requested him to cancel the deputation on the ground that it is not in accordance with the Rules and it was not issued for a particular tenure. It is their further contention that, because of their family problems, it was not possible to them to join on the new posting. It is their further contention that the Respondent No.2 had not called absence from them and obtained their consent before passing the impugned order of

deputation. It is their contention that there are several senior persons working at Nanded but without sending them on deputation, the Respondent No.2 has issued the impugned order against the Rules. The representation has not been considered by the Respondent No.2, and therefore, they filed the present O.A. and prayed to quash the impugned order dated 08.02.2018.

10. The Respondent Nos.1 to 4 filed their Affidavit-in-reply and resisted the contentions of the Applicants. They have denied that the impugned deputation order is against the provisions of Rules and the order has been issued without following the Rules. It is their contention that the Applicants are misrepresenting the deputation order as transfer order. It is their contention that the Government had started a new Government Medical College at Jalgaon. The approval of Medical Council of India and Maharashtra University of Health Sciences is necessary for running the Medical College. As per the norms, adequate staff in the proposed College is necessary for these approvals. As a new institution, it is not possible to fill up all the posts within a short period, and therefore, the Respondents deputed the experienced employees in the Government Medical College, Jalgaon for smooth running of the Institution. The deputation of the Applicants was for a special purpose and for specific period. The Government has started the Medical College at Jalgaon to provide medical education to the students and to provide medical facilities to the poor and needy persons and considering the said aspect,

the Respondent No.2 has passed the impugned order deputing the Applicants at Jalgaon. It is their contention that no question of calling options and obtaining consent of the Applicants arises while deputing them, as the Respondent No.2 has deputed the Applicants at Jalgaon for smooth functioning of the newly started Government Medical College at Jalgaon. The said deputation order has been issued in the public interest on administration ground and there is no illegality in the impugned order, and therefore, they prayed to reject the O.A.

11. I have heard Shri Sham B. Patil, learned Advocate for the Applicants and Shri I.S. Thorat, learned Presenting Officer (P.O.) for the Respondents and perused the documents produced by the parties on record.

12. Admittedly, the Applicants are working on different posts in the Government Medical College & Hospital, Nanded. Admittedly, the Government established a new Government Medical College at Jalgaon to provide educational facilities to the needy students and to provide medical facilities to needy and poor persons in the area. There is no dispute about the fact that for starting the Medical College, the approval of Medical Council of India and Maharashtra University of Health Sciences is necessary. For getting approval, it is necessary on the part of the Government to provide adequate staff as per norms. It is also not in dispute that it is not possible for the Respondent No.2 to fill up all the posts in the newly

established Medical College within a short period, and therefore, the Respondent No.2 issued the impugned order dated 08.02.2018 deputing the Applicants at Jalgaon as a stop gap arrangement. Admittedly, the Applicants have been relieved in pursuance of the impugned order, but they have not joined the Medical College at Jalgaon.

13. The learned Advocate for the Applicants has submitted that the Respondent No.2 has not followed the Rules regarding deputation and they had not called for the absence and consent of the Applicants before deputing them in the Government Medical College at Jalgaon. He has attracted my attention towards the policy decision taken by the Government by G.R. dated 17.12.2016 in respect of the appointment of the Government employees on deputation and submitted that, as per the said G.R, it is necessary to call the applications from the willing persons before sending them on deputation. He has submitted that it is mandatory on the part of the Government i.e. Respondent No.2 to obtain the consent of the Applicants before sending them on deputation. He has submitted that the Applicants never applied for the deputation, and therefore, the impugned order of deputation is not legal one. In support of his submission, he has placed reliance on the Judgment in case of **State of Punjab Vs. Inder Singh reported in 1998 AIR (SC) 7** and in case of **Vijay Saraswat Vs. State of Rajasthan & Ors. reported in 2007 (5) SLR Page 261.**

14. The learned Advocate for the Applicants has submitted that number of employees working in Jalgaon District and other places had given consent to the Respondent No.2 to work at Jalgaon in the newly established Government Medical College, but the Respondent No.2 had not considered their willingness and has intentionally deputed the Applicants at Jalgaon. He has argued that the Respondent No.2 ought to have considered the applications of the employees who are willing to work at Jalgaon but instead of that, he passed the impugned order which is causing inconvenience to the Applicants, and therefore, he prayed to quash the impugned order.

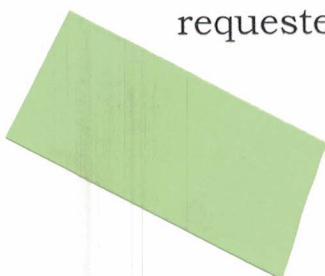
15. The learned P.O. has submitted that the Applicants have been deputed at Jalgaon for a specific purpose and for a specific period, as it was not possible to the Respondent No.2 to appoint staff members required for smooth functioning of newly established Government Medical College at Jalgaon within a short period. He has submitted that, in order to get the approval of the Medical Council of India and Maharashtra University of Health Sciences for running the Medical College, it is necessary to appoint adequate staff members in the College. He has submitted that the Applicant having the experienced employees, and therefore, they have been deputed at Jalgaon by the impugned order. He has submitted that the deputation of the Applicants is within their own department and not to a foreign department. He has argued that the G.R. dated 17.12.2016 is not applicable to the instant case, as the

G.R. provides for the terms and conditions to be followed while deputing the Government employees from one department to another department or in corporations, legal bodies, etc. The said Rules are in respect of deputation of employees to a foreign department, and therefore, the said G.R. is not attracted in this case. He has further argued that the Judgments referred by the learned Advocate for the Applicants are also not attracted in this case, as the same are in respect of deputation of the employees to a foreign department. He has submitted that, as the Applicants have been deputed from one station to another station for a specific period within the department, there is no necessity to obtain consent of the Applicants and call their options. He has submitted that the Respondent No.2 has rightly issued the deputation order and there is no illegality in the order. He has further submitted that, during the pendency of the O.A, the Respondent No.2 issued the order dated 18.04.2018 and thereby fixed the period of deputation to the extent of six months and also granted Transfer Allowance to the Applicants and took the corrective measures, and therefore, he prayed to reject the O.A.

16. On perusal of the record, it reveals that the impugned order dated 08.02.2018 has been issued by the Respondent No.2 deputing the Applicants in the Government Medical College at Jalgaon. Initially, no period of deputation has been mentioned therein. But during the pendency of the O.A, the Respondent No.2 issued the order dated 18.04.2018

and thereby fixed the deputation period for six months and also granted Transfer Allowance to those employees mentioned in the order dated 08.02.2018. Admittedly, the Government has decided to start a new Government Medical College at Jalgaon to facilitate the meritorious students in that area and to give the medical aid to the needy and poor persons. In order to get the approval of Medical Council of India and Maharashtra University of Health Services to run the Medical College, it is necessary for the Respondent No.2 to appoint adequate staff members in the newly appointed Government Medical College at Jalgaon and because of the paucity of time, the Respondent No.2 decided to depute some of the employees in the Government Medical College at Jalgaon and accordingly, the impugned order dated 08.02.2018 deputing the Applicants had been issued. The record shows that the deputation of the Applicants is within the same department i.e. department of Medical Education and Research. It is not a deputation in foreign department. Therefore, the provisions of G.R. dated 17.12.2016 are not attracted in this case. The record shows that the deputation of the Applicants has been made in the public interest and due to administrative exigencies. There is nothing on record to show that the said deputation of the Applicants has been made with *malafide* intention.

17. The only grievance of the Applicants is that, some of the employees made application with the Respondent No.2 and requested to make deputation in the Government Medical



College at Jalgaon, but the Respondent has not considered the applications of those employees and deputed the Applicants without obtaining their consent. It is material to note that it is discretion of Respondent No.2 to make the deputation of the experienced staff in the newly started Government Medical College at Jalgaon and considering the experience of the Applicants, the Respondent No.2 decided to depute them in Government Medical College at Jalgaon. The said deputation has been made to run the newly established Government Medical College at Jalgaon smoothly, and therefore, in my view, there is no illegality in the impugned order. The said deputation has been made for a specific period. The allowances as per the Rules are granted to the Applicants, and therefore, I do not find any illegality in it. There is no substance in the contention of the Applicants in this regard.


18. I have gone through the above stated decisions relied upon by the learned Advocate for the Applicants. The Hon'ble Apex Court in case of **State of Punjab Vs. Inder Singh reported in 1998 AIR (SC) 7** has defined the meaning of the word "deputation" as follows :

"The concept of "deputation" is well understood in service law and has a recognized meaning. "Deputation" has a different connotation in service law and the dictionary meaning of the word "deputation" is of no help. In simple words "deputation" means service outside the cadre or

outside the parent department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another department on a temporary basis. After the expiry period of deputation the employee has to come back to his parent department to occupy the same position unless in the meanwhile he has earned promotion in his parent department as per the Recruitment Rules.”

19. By considering the observations of the Hon'ble Apex Court and principles laid down therein and the Rules laid down by the Government regarding the deputation on foreign service are not attracted in this case, as the facts in the above cited decisions as well as the facts in the decision in case of **Vijay Saraswat** (supra) are not identical of the facts in the present case.

20. Considering the above said discussion, in my opinion, there is no illegality in the impugned order dated 08.02.2018 issued by the Respondent No.2 deputing the Applicants in the Government Medical College at Jalgaon. Because of the administrative exigencies, the Applicants have been deputed, and therefore, it cannot be said that the impugned order is malafide and arbitrary. There is no illegality in the impugned order, and therefore, no interference is called for in the said O.A. There is no merit in the O.A. Consequently, it deserves to be dismissed.



21. In view of the discussion in the foregoing paragraphs, the Original Application stands dismissed with no order as to costs.



(B.P. Patil)
Member-J

24.05.2018
✓

Mumbai ✓
Date 24.05.2018
Dictation taken by :
S.K. Wamanse.