

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 473 OF 2016**

**DISTRICT: LATUR**

**Dr. Govind Kishanrao Reddy,**

Age: 49 years, Occu. : Taluka Health Officer,  
Devani, Tq. Devani, District Latur.

.. **APPLICANT**

**V E R S U S**

- 1) The State of Maharashtra,  
(Through its Principal Secretary  
Public Health Department,  
Mantralaya, Mumbai.
- 2) The Director of Health Services,  
Maharashtra Health Services,  
10<sup>th</sup> Floor, Sankul Building,  
G.T. Hospital,  
Mantralaya, Mumbai-400 001.
- 3) The Deputy Director of Health Services,  
Latur, Tq. And District Latur.
- 4) The Chief Executive Officer,  
(though District Health Officer,  
Zilla Parishad, Latur).
- 5) Dr. Dilip Dnyaneshwar Gurame,  
Age : Major, Occu.: Service,  
Primary Health Centre,  
Pedgaon, Tq. & District Latur.

.. **RESPONDENTS**

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APPEARANCE : Shri V.B. Wagh, learned Advocate for the  
Applicant.

: Shri I.S. Thorat, learned Presenting  
Officer for Respondent nos. 1 to 3.

: Shri S.D. Joshi, learned Advocate for  
Respondent no. 5.

: Shri S.S. Manale, learned Advocate for  
Respondent no. 4 (**Absent**).

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**CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)**  
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**O R D E R**

**(Delivered on this 11<sup>th</sup> day of April, 2017.)**

1. The applicant has challenged the impugned order of transfer dated 31.05.2016 transferring him from the post of Taluka Health Officer, Devani, Tq. Devani, Dist. Latur to the post of Medical Officer at Primary Health Centre, Devarjan, Tq. Udgir, Dist. Latur and also sought direction to the respondent no. 2 to decide his representation dated 20.01.2017 in respect of posting on the post of Taluka Health Officer.

2. The applicant has passed M.B.B.S. examination on 03.09.1996 and joined service as Medical Officer in the year 1996 on ad-hoc basis. He was absorbed as per G.R. dated 9.2.2009 and posted as Medical Officer at Primary Health Centre, Bhada. The Government created post of Taluka Health Officer and laid down the guidelines regarding the duties, functions and responsibilities of Taluka Health Officer and delegated powers to the respondent no. 4 i.e. Chief Executive Officer, Zilla Parishad, Latur to appoint Taluka Health Officer considering seniority and experience of Medical Officer. Accordingly, the respondent no. 4 has posted the applicant on the post of Taluka Health Officer, Devani, Dist. Latur

by order dated 30.06.2009. The Government has issued G.R. dated 16.05.2007 laid down the duties, functions and responsibilities of Taluka Health Officer and the said G.R. has modified vide G.R. dated 24.05.2007 wherein it has been clarified that the Taluka Health Officer is an independent post and he is controlling authority of the Primary Health Centre in Taluka and he should not be allotted regular work of Primary Health Centre. Since appointment, he was working as a Taluka Health Officer, Devani, Dist. Latur. He has undergone the training in D.P.H. and N.R.H.M. His transfer has not been recommended by respondent no. 4. Not only this, but the options have not been called from him before issuing impugned order of transfer dated 31.05.2016. But he was transferred from the post of Taluka Health Officer, Devani, Dist. Latur to the post of Medical Officer, P.H.C. Devarjan, Tq. Udgir, Dist. Latur by impugned order of 31.05.2016. Nobody was posted at his place under the same order. The post of Taluka Health Officer is an administrative post.

3. The applicant has experience on the post of Taluka Health Officer since 2009. Considering his experience, the respondents ought to have posted him on the post of Taluka Health Officer at any place, but instead of that, they posted him as Medical Officer, Primary Health Officer, Devarjan, Dist. Latur.

During pendency of Original Application, the respondents have posted the respondent no. 5 on the place of applicant as Taluka Health Officer, Devani vide order dated 11.01.2017. The respondent no. 5 has completed Post Graduation. He ought to have been posted on the vacant post of Medical Officer but he has been posted on the post of Taluka Health Officer which is a separate cadre. Therefore, he prayed to set aside the impugned order of transfer dated 31.05.2016. He has also prayed to issue directions to the respondent no. 1 to decide the representation dated 20.01.2017 made by him during pendency of the O.A.

4. The respondent nos. 1 to 3 have filed their affidavit in reply and resisted the contention of the applicant. They have denied that the post of Taluka Health Officer is a separate cadre and it is a promotional post. They have denied that the powers of transfer of Taluka Health Officer are vested with the Zilla Parishad. They have denied that they ought to have transferred the applicant at any place as Taluka Health Officer considering his experience but illegally transferred him on the post of Medical Officer, P.H.C. Devarjan, Tq. Udgir, Dist. Latur by degradation. They have denied that the transfer order of the applicant is in contravention of the Maharashtra Government Servants

Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short the 'Transfer Act 2005'). It is their contention that the post of Medical Officer and Taluka Health Officer in Primary Health Centre are equivalent post and belonging same cadre i.e. Medical Officer, Group-A. As the post of Taluka Health Officer is not separate post or independent cadre, the applicant cannot claim as a matter of right that he should be posted as Taluka Health Officer, only. The applicant was due for transfer, since he has completed his stipulated tenure of regular posting on the post of Taluka Health Officer and therefore, he has been transferred vide impugned order dated 31.05.2016 in view of the provisions of the Transfer Act, 2005. The respondent no. 5 i.e. Dr. Dilip D. Gurme posted on the post of Taluka Health Officer, Devani, Dist. Latur vide order dated 11.01.2017. He has been relieved by Chief Executive Officer, Zilla Parishad on 31.01.2017 for joining his new posing as Taluka Health Officer, Devani, Dist. Latur. On 1.02.2017, respondent no. 5 made an application to the respondent no. 3 to allow him to join on the post of Taluka Health Officer, Devani, Dist. Latur. Respondent no. 3 sought guidance from the respondent no. 2 and respondent no. 2 directed the respondent no. 3 to allow the respondent no. 5 to join on the post of Taluka Health Officer, Devani, Dist. Latur in the context of interim relief granted by this Tribunal. They have contended that

the posting of Medical Officer in the Taluka Health Centre is not a permanent posting and the same can be modified after evaluation of the performance of the concerned Medical Officer. It is their contention that the impugned order has been issued after considering all these facts and therefore, they prayed to reject the present Original Application.

5. Heard Shri V.B. Wagh, learned Advocate for the applicant, Shri I.S. Thorat, learned Presenting Officer for respondent nos. 1 to 3 and Shri S.D. Joshi, learned Advocate for respondent no. 5. Shri S.S. Manale, learned Advocate for respondent no. 4 (**Absent**). I have also perused the affidavit, affidavit in replies and various documents placed on record by the respective parties.

6. Learned Advocate for the applicant submitted that the applicant is a senior most and experienced Medical Officer and therefore, he has been appointed on the post of Taluka Health Officer, Devani, Dist. Latur vide order dated 30.06.2009. He has submitted that the Government has issued guidelines regarding duties, functions and responsibilities of the Taluka Health Officer vide Government Resolution dated 16.05.2007. The said G.R. has been modified by the subsequent G.R. dated 24.05.2007 mentioning therein that the eligibility for appointment on the post

of Taluka Health Officer was on the basis of seniority as well as by nomination of Medical Officer by M.P.S.C.. Initially powers were vested with the Chief Executive Officer, Zillha Parishad. He has submitted that the applicant was appointed on the said post. The applicant is working on the post of Taluka Health Officer, Devani, Dist. Latur since 2009. The post of Taluka Health Officer is a promotional post and it is independent post and separate cadre. Therefore, once Medical Officer posted on the said post cannot be posted as Medical Officer in Primary Health Centre, as he acquires sufficient experience in the administrative post. He has submitted that the respondents have not considered the said aspect while posting the applicant as Medical Officer at Primary Health Center, Devarjan, Tq. Udgir, Dist. Latur. He has submitted that the applicant ought to have been posted as Taluka Health Officer on any place in the district but by issuing the impugned order of transfer the respondent demoted or degraded the applicant and therefore, the impugned order is in contravention of the guidelines given in the G.R. dated 16.05.2007. He has submitted that during pendency of the O.A., respondents appointed the respondent no. 5 vide order dated 11.01.2017 as Taluka Health Officer, Devani. He has submitted that the respondent no. 5 completed P.G. and therefore, he ought to have been appointed as Medical Officer elsewhere. He has further

argued that during pendency of the O.A., the applicant put his grievance before the respondents by filing representation dated 20.01.2017 and requested to post him on the post Taluka Health Officer elsewhere in the District, but the respondents have not taken decision on it. Therefore, he has prayed to issue necessary direction to the respondents in that regard.

7. Learned Presenting Officer has submitted that the applicant is serving as a Taluka Health Officer, Devani, Dist. Latur since 2009 and he was due for transfer under provisions of Transfer Act, 2005 and therefore, the applicant has been transferred from the post of Taluka Health Officer, Devani, Dist. Latur vide impugned order dated 31.05.2016 and he has posted as Medical Officer, Taluka Health Centre, Devarjan, Tq. Udgir, Dist. Latur. He has submitted that the post of Taluka Health Officer is not promotional post and it is not a separate cadre. The Medical Officer belonging to cadre of Medical Officer Group-A can be appointed as Taluka Health Officer. Both the post of Taluka Health Officer as well as Medical Officer nominated by M.P.S.C. are equivalent posts. He has further submitted that the Medical Officer appointed as Taluka Health Officer cannot claim his posting as Taluka Health Officer as permanent posting and the said fact has been clarified by the Director, Health Services,



Mumbai vide Circular dated 6.6.2009. He attracted my attention towards the said letter at Annexure R-1 (page nos. 35 & 36). He has submitted that by impugned transfer order the applicant has been posted as a Taluka Health Officer, Devani, Dist. Latur to Medical Officer, Devarjan, Tq. Udgir, Dist. Latur in view of the provisions of the Transfer Act, 2005 as well as inconsonance with the guidelines given in the G.R. dated 16.05.2007. There is no illegality in the impugned transfer order and therefore, he prayed to reject the present Original Application.

8. On going through the Government Resolution dated 17.05.2007, it reveals that the senior most and experienced Medical Officer, Group-A is eligible for the appointment on the post of Taluka Health Officer. Preference should be given to senior most and M.P.S.C. nominated persons while appointing Medical Officer on the post of Taluka Health Officer and decision of Chief Executive Officer, Zillha Parishad in that regard will be final. The powers of the CEO, Z.P. has been withdrawn thereafter and it are vested to the Government in view of the Government Resolution dated 28.03.2012. This fact has not been disputed by the learned Advocate for the applicant. The Taluka Health Officer is not a separate cadre and or it is not a promotional post. The Medical Officer who is eligible and who fulfills eligible criteria

mentioned in the G.R. dated 16.05.2007 can be appointed on the post of Taluka Health Officer. But the said posting is not a permanent, as clarified by the Director of Health Services, Mumbai by letter dated 6.6.2009. Therefore, transfer of the applicant from the post of Taluka Health Officer, Devani, Dist. Latur to Medical Officer, Devarjan, Tq. Udgir, Dist. Latur cannot be said to be in contravention of the G.R. dated 16.05.2007. It is not a demotion or degradation. The applicant cannot claim that he should be posted on similar post of Taluka Health Officer and he cannot be posted again as Medical Officer in Primary Health Centre. The applicant has completed his regular tenure of posting at Devani and therefore, he has been transferred from Devani, Dist. Latur in view of the provisions of Transfer Act, 2005. There is no illegality in the impugned order of transfer dated 31.05.2016. Therefore, there is no merit in the submission advanced by the learned Advocate for the applicant. There is no merit in the O.A. Consequently, it deserves to be dismissed.

9. Therefore, the O.A. stands dismissed with no order as to costs.

**(B.P. PATIL)**  
**MEMBER (J)**