

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMABI
BENCH AT AURANGABAD.

DIST. OSMANABAD.

ORIGINAL APPLICATION NO.517/2016.

Balwantsing s/o Ramsingh Sardar,
Age 57 years, Occu. Service,
(Deputy Engineer (Mechanical),
P.W. (Mechanical) Sub Division,
Osmanabad) R/o C/o Shri
Indapurkar, Near Dnyaneshwar
Mandir, Latur Road,
Osmanabad.

-- **APPLICANT**

VERSUS

1. The State of Maharashtra
Through its Secretary,
Water Resources Department,
M.S. Mantralaya, Mumbai 32.
2. The Secretary,
Public Works Department,
M.S. Mantralaya, Mumbai 32.
3. The Superintending Engineer,
(Mechanical), Public Works
Division, 7th Floor,
Kokan Bhawan, Navi Mumbai.
4. Mr. Shivdas Pandharinath Pavle,
Age Major, Occu. Service (as
Deputy Engineer (Mechanical),
Public Works Sub Division,
Osmanabad.

-- **RESPONDENTS.**

APPEARANCE : Shri A. S. Deshmukh, learned Advocate for the Applicant.

: Shri M. S. Mahajan, learned Chief Presenting Officer for the Respondents no.1 to 3 ; and
: Shri D.T. Devane, learned Advocate for the Respondent no.4.

CORAM : **Hon'ble Shri JD Kulkarni, Member (J).**

DATE : 23.01.2017.

JUDGMENT.

(Delivered on this 23rd day of January, 2017)

1. Heard Shri A. S. Deshmukh, learned Advocate for the Applicant, Shri M. S. Mahajan, learned Chief Presenting Officer for the Respondents no.1 to 3 and Shri D. T. Devane, learned Advocate for the Respondent no.4.

2. Applicant has challenged the impugned order of 31.5.2016 issued by Respondent no.2 whereby the applicant has been repatriated from his post of Dy. Engineer (Mechanical) from the P.W.D. (Mechanical Department) Osmanabad to Water Resources Department. In fact it is not a transfer order but the applicant has been repatriated to his parent department.

3. Learned Advocate for the applicant submits that the applicant is due to retire on 31.3.2017 on superannuation and his pension

papers have already been sent to A.G. for necessary action. Subsequently it seems that, the pension has been sanctioned and the sanction order has been passed in favour of Executive Engineer, P.W. Division, Osmanabad. It is marked at Exh.X for the purposes of identification.

4. Learned Advocate for the applicant submits that, if the applicant is repatriated to the Water Resources Department again there will be impediment in granting pension as the Water Resources Department will have to again submit the pension papers for sanction to the Accountant General.

5. The Respondents in their affidavit have submitted that the applicant was required to be repatriated to his own department in view of the G.R. dated 24.9.1992. The said G.R. is placed on record at Exh.R-2.

6. The noting along with said G.R. is at Exh.R-2. The relevant para no.5 of the Exh.R-2 reads as under :-

“५ सार्वजनिक बांधकाम विभागात प्रत्यावर्तीत करण्यात आलेले उप अभियंता यांना जलसंपदा विभागातील कामाचीदेखील मातिहती असणे आवश्यक आहे सार्वजनिक बांधकाम विभागाच्या शासन निर्णय नांक २४७९७१९९२ मधील तरतुदीनुसार सार्वजनिक बांधकाम विभागात ८ वर्षे व त्यापेक्षा अधिक सेवा केलेल्या खालील उप अभियंता यांत्रिकी यांचया सेवा सेवानिवृत्तीस १ वशापेक्षा कमी सेवा शिल्लक असलेले उप अभियंता यांत्रिकी यांची नावे वगळून जलसंपदा विभागात प्रत्यावर्तीत करणे आवश्यक आहे

7. From the said noting it seems that, those employees who are on deputation for more than 8 years were to be repatriated, however, while preparing such list of employees the employees having less than one year for retirement were to be excluded. In spite of such noting the name of the applicant has been included in the list of employees to be repatriated.

8. From the aforesaid circumstances it will be clear that, there was no need to include the name of the present applicant in the list of Officers to be repatriated since he is to retire on 31.3.2017. The possibility that, there may be further complications and multiplicity of proceedings for getting the pension cannot be ruled out.

9. Learned Advocate for the Respondent no.4 Shri D. T. Devane submits that, Respondent no.4 has been posted in place of applicant and is not yet relieved from Chandrapur. However, respondent no.4 is ready to join in place of applicant. He further stated that, even if the applicant is retained for the time being till 31.3.2017 at his place, the respondent no.3 can be asked to wait till 31.3.2017. In view thereof, the following order.

ORDER.

- i) The Original Application is allowed.
- ii) The impugned cancellation of deputation of the applicant vide order dated 31.5.2016 is quashed and set aside.
- iii) The Respondents are directed to allow the applicant to retire from P.W.D. (Mechanical) Sub Division, Osmanabad on superannuation on 31.3.2017. After superannuation of the applicant the Respondent no.4 shall take charge of the said post at Osmanabad.
- iv) No order as to costs.

MEMBER (J)

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