IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.1361 OF 2024

DISTRICT : PUNE
SUBJECT : TRANSFER

Shri. Dhananjay Dinkar Patil,)
Age - 53 Years,)
Working as, District Quality Control Inspector,)
office of District Superintendent Agriculture Office,)
Pune, Residing at - Sun Orbit-B-405,)
Suncity Road, Sinhagad Road, Pune.)... **Applicant**

Versus

1) State of Maharashtra,)
Through Principal Secretary,)
Animal Husbandry, Dairy Development & Fisheries)
Department, Mantralaya, Mumbai-400 032.)

2) The Commissioner (Agriculture))
Agriculture Commissionarate,)
Maharashtra State, Pune-)

3) Divisional Agriculture, Jt. Director,)
Pune Division, Pune.)

4) District Superintendent Agriculture Officer,)
Pune, Dist.-Pune.)

5) Shri. Vilas Baburao Dhaiygude,)
Agriculture Officer Quality Control,)
Pune)...**Respondents**

Smt Punam Mahajan, learned Advocate for the Applicant.

Shri Ashok J. Chougule, learned Presenting Officer for the Respondent Nos.1 to 4.

Shri Makarand D. Lonkar, learned Advocate along with Ms. Purva Pradhan, learned Advocate for the Respondent No.5.

CORAM : M.A. LOVEKAR, VICE-CHAIRMAN

RESERVED ON : 13.02.2025

PRONOUNCED ON : 14.02.2025

JUDGMENT

1. Heard Smt. Punam Mahajan, learned Advocate for the Applicant, Shri A.J. Chougule, learned Presenting Officer for the Respondent Nos.1 to 4 and Shri Makarand D. Lonkar, learned Advocate along with Ms. Purva Pradhan, learned Advocate for the Respondent No.5.

2. Case of the Applicant is as follows. By order dated 11.10.2024 (Annex. A-2) the Applicant was transferred from Solapur to Pune. The impugned order (Annex. A-1) transferring Respondent No.5 from Khandala, District Satara to Pune on the post on which the Applicant was transferred, is also dated 11.10.2024. The Applicant was relieved on 11.10.2024 (Annex. A-3) and he joined on the transferred post on 14.10.2024 (B-N) (Annex. A-5). By communication dated 15.10.2024 (Annex. A-7) Respondent No.4 informed Respondent No.3 as follows-

> "उपरोक्त संदर्भीय विषयास अनुसरुन सविनय सादर करण्यात येते की, श्री.धनंजय दिनकर पाटील, कृषी अधिकारी (गुनि), जिअकृअ कार्यालय सोलापुर यांची बदलीने पदस्थापना कृषी अधिकारी (गुनि), जिल्हा अधीक्षक कृषी अधिकारी कार्यालय पुणे येथे झाली असल्याचे नमुद करुन जिल्हा अधीक्षक कृषी अधिकारी कार्यालय सोलापुर यांनी त्यांचे पत्र क्रमांक ४५७८, दिनांक ११/१०/२०२४ अन्वये कार्यमुक्त केल्याबाबतचे आदेश या कार्यालयास पाठविले. श्री. पाटील यांनी बदलीने पदस्थापित पदावर दिनांक १४/१०/२०२४ रोजी हजर होतेवेळी हजर अहवालासोबत शासन आदेश, जिअकृअ सोलापुर यांचे कार्यमुक्त अहवाल सोबत जोडण्यात आले होते. त्याअनुषंगाने या कार्यालयाचे हजर अहवाल पत्र क्रमांक जा.क्र.जिअकृअ/आस्था-१ /बदली / कृअ/पाटील/३८९५/२०२४ दिनांक १४/१०/२०२४ अन्वये बदलीने पदस्थापित पदावर हजर करुन घेऊन तसे वरिष्ठ कार्यालयास ई-मेलद्वारे कळविण्यात आलेले आहे.
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> मा.आयुक्त कृषी, म.रा.पुणे यांचे कार्यालयाचे पत्र क्रमांक जा.क्र.कृ.आ./आस्थापना शाखा/२०२४/३९६-२, दिनांक १५/१०/२०२४ रोजीच्या पत्रान्वये श्री. विलास बापुराव घायगुडे, कृषी अधिकारी, ताकृअ कार्यालय खंडाळा, जि. सातारा यांचे कृषी अधिकारी (गुनि), जिअकृअ कार्यालय पुणे येथे बदलीने पदस्थापनेबाबतचे शासन आदेश कृषी आयुक्तालयाचे अधिकृत ई-मेलद्वारे प्राप्त झालेले आहेत. ताकृअ खंडाळा कार्यालयाचे कार्यमुक्त अहवाल व ई-मेल वरील प्राप्त शासन आदेशानुसार श्री. विलास बापुराव घायगुडे, कृषी अधिकारी (गुनि), जिअकृअ पुणे या पदावर आज दिनांक

१५/१०/२०२४ रोजी मध्यान्हपूर्व हजर करुन घेण्यात आलेले आहे. हे आपले माहितीस्तव तथा पुढील कार्यवाहीसाठी सविनय सादर."

The Applicant as well as Respondent No.5 were transferred on request as can be seen from Annex. A-1 & Annex. A-2. By order dated 11.10.2024 (Annex. A-6) Shri Bagal was transferred to Solapur on the post held till then by the Applicant, and he joined on the said post on 15.10.2024.

3. According to the Applicant, the impugned order of transfer of Respondent No.5 was antedated, it was actually issued on 15.10.2024 and the proposal for the said transfer was not placed before the CSB.

4. Stand of Respondent No.1 is as follows. Application of the Applicant for request transfer was not considered favorably by the Civil Services Board (CSB) in its meeting dated 07.10.2024. The impugned order of transfer of Respondent No.5 was passed in public interest and the Competent Authority was vested with powers to pass such order.

5. Stand of Respondent No.5 is as follows. The Applicant was not due for transfer. Proposal of his transfer was rejected by the CSB. Yet, order of his transfer was issued. He, Respondent No.5 was due for transfer. He was relieved on 14.10.2024 pursuant to the impugned order and reported at the transferred place on 15.10.2024.

6. It was submitted by Smt. Punam Mahajan, learned Advocate for the Applicant that transfer order of the Applicant was issued on 11.10.2024, pursuant to the said order he was relieved on the same date and he joined on the transferred post on 14.10.2024 (B-N). This submission is fully supported by record.

7. It was further submitted by Advocate Smt. Mahajan that order of transfer of Respondent No.5 could not have been issued on 11.10.2024 and it was antedated. In support of this submission reliance was placed

on communication dated 22.10.2024 (Annex. R-5 at pg 263) received by the office of learned CPO from Respondent No.1. This communication *inter-alia* states-

> "सर्वप्रथम दि.११.१०.२०२४ रोजी श्री.धनंजय दिनकर पाटील यांची विनंती बदली कृषि अधिकारी, (गुनि) जिल्हा अधिक्षक कृषि अधिकारी कार्यालय, पुणे दर्शविण्यात येऊन आदेश निर्गमित करण्यात आले होते.
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> सदर आदेशाच्या अंमलबजावणी करीता सदरहू आदेश आयुक्त (कृषि) यांना दि.११.१०.२०२४ रोजी ईमेल व्दारे पाठविण्यात आले.
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> तथापि, यापूर्वी निर्गमित केलेल्या विनंती बदली आदेशामध्ये शासनाने अंशत: बदल करुन सुधारीत विनंती बदली आदेशास मान्यता दिली.
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> त्यानुसार यापूर्वीचे ईमेलव्दारे पाठविलेले आदेशाची अंमलबजावणी न करण्याबाबत कृषि आयुक्तालयास दूरध्वनीव्दारे कळविण्यात आले व सदरील आदेशाचा ईमेल कृषि आयुक्तालयाकडून डिलीट करण्यात आला.
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> तद्नंतर शासनाने सुधारीत विनंती बदली आदेश निर्गमित केले आहेत. त्यामध्ये श्री. विलास बाबुराव घायगुडे यांची बदलीने पदस्थापना कृषि अधिकारी, (गुनि) जिल्हा अधिक्षक कृषि अधिकारी कार्यालय, पुणे या ठिकाणी करण्यात आली आहे.
>
> यामध्ये विभागाचे असे मत आहे की, सदर प्रकरणी शासनाने अंतीमत: दिलेल्या सुवारीत आदेशाप्रमाणे श्री.धनंजय दिनकर पाटील यांचे विनंती बदली आदेश रद्द ठरतात व श्री. विलास बाबुराव धायगुडे यांचे विनंती बदली आदेश विधिग्राह्य ठरतात."

8. It is not disputed that the Applicant was relieved pursuant to his transfer order and he joined on the transferred post on 14.10.2024. Shri Bagal was transferred to the post at Solapur which was till then held by the Applicant. Order of transfer of Respondent No.5 is also shown to have been issued on 11.10.2024. It could not have been issued without expressly cancelling order of transfer of the Applicant. Communication at Annex. R-5 states-

> "त्यानुसार यापूर्वीचे ईमेलव्दारे पाठविलेले आदेशाची अंमलबजावणी न करण्याबाबत कृषि आयुक्तालयास दूरध्वनीव्दारे कळविण्यात आले व सदरील आदेशाचा ईमेल कृषि आयुक्तालयाकडून डिलीट करण्यात आला."

Deletion of such email, assuming that it was sent, gives rise to an inference that the impugned order of transfer of Respondent No.5 could have been antedated.

9. It is a matter of record that proposal for transfer of the Applicant was not approved by CSB. It is also not in dispute that proposal of transfer of Respondent No.5 was not even placed before the CSB.

10. For the reasons discussed hereinabove the impugned order of transfer of Respondent No.5 cannot be sustained. It is quashed and set aside. Original Application is allowed in these terms with no order as to costs.

Sd/-
(M.A. Lovekar)
Vice-Chairman

Place: Mumbai
Date: 14.02.2025
Dictation taken by: N.M. Naik.

Uploaded on:_____

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