

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No.448 of 2019 (D.B.)**

Arvind Lalsingh Rathod,
aged 49 years, Occ. Service, Senior Clerk,
O/o Deputy Controller, Legal Meteorology,
Amravati Division, Amravati.

Applicant.

Versus

- (1) The Secretary,
Food Civil Supply and Consumer Protection Department,
Mantralaya Extension, Mumbai 400 032.
- (2) The Controller,
Legal Meteorology (Maharashtra State)
Fountain Telecom Building No.1, 7th floor,
Hutatma Smarak Chowk, M.G. Road, Mumbai-400 001.
- (3) Superintendent/ Controller,
Legal Meteorology (Maharashtra State) Fountain Telecom.
Building No.1, 7th floor, Hutatma Smarak Chowk,
M.G. Road, Mumbai 400 001.
- (4) Superintendent Deputy Controller,
Legal Meteorology Department, Kokan Bhavan CBD,
New Bombay.
- (5) The Superintendent / Deputy Controller,
Legal Meteorology, Nagpur Division Nagpur.

Respondents.

Shri G.G. Bade, Advocate for the applicant.
Shri V.A. Kulkarni, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar, Vice Chairman and
Hon'ble Shri Nitin Gadre, Member (A).**

Dated :- 25/09/2024.

J U D G M E N T

Heard Shri G.G. Bade, learned counsel for the applicant and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant passed his matriculation examination in the year 1987. The applicant belongs to V.J. (A) category. By order dated 11/04/1997, the applicant was appointed on the post of Clerk-cum-Typist and was posted at Consumer Redressal Forum, Wardha. Applicant joined his duty at Wardha on 17/04/1997 as per order dated 11/04/1997. On 01/04/1998, Deputy Controller of Legal Meteorology, Nagpur Region, Nagpur published seniority list of Clerk-cum-Typist working in the Nagpur Region. In this seniority list, applicant is shown at Sr.No.13. Immediately after receipt of copy of seniority list, applicant lodged objection on 30/04/1998. Thereafter, the applicant was transferred on his own request from Wardha to Yavatmal. Applicant is shown junior to other employees at Yavatmal. It is the contention of the applicant that his seniority is wrongly decided at the transferred place, therefore, filed the present O.A. for the following reliefs –

“a) Call for record and proceedings pertaining seniority list of the Clerk, Senior Clerk and Superintendent from the office of Controller of Legal Meteorological, peruse the same, and

(b) Quash and set aside the impugned order, dated 12.03.2019 issued by Deputy Controller of Meteorological Department at Annexure A-1 rejecting the representation of the applicant dated 3.8.2018 and 10.1.2019;

(c) Direct the respondents to prepare seniority list of Clerk cum Typist as on 1.1.1998 in accordance with regulation (7) of Maharashtra Civil Services (Regulation of Seniority) Rules, 1982 at State Level by competent authority i.e. Controller of Legal Meteorological Department;

(d) Direct the respondents to consider the applicant's service from 11.4.1997 and direct the respondents to rectify the mistake of mentioned date of appointment as 10.7.2001 in the seniority list, dated 1.1.2015 which is provisional and to be finalized;

(e) Direct the respondents to promote the applicant to the post of Senior Clerk from 29.03.2006 and further promote the applicant to the post of Superintendent from 8.1.2015 with all consequential benefits of arrears of salary, increments and pay fixation in the interests of justice."

3. The O.A. is strongly opposed by the respondents. It is submitted by the respondents that specific order was passed on the request transfer. The applicant was given understanding that he will loose his seniority. The applicant has accepted the request transfer order. As per the rules dated 21/06/1982, the seniority is to be fixed as per Rule 5 (7). As per this rule, seniority of the transferred employee on his own request is to be decided by the competent authority. It is submitted by the respondents that seniority of the applicant is decided as per the transfer order. Hence, O.A. is liable to be dismissed.

4. There is no dispute that the applicant was working at Wardha. He was transferred as per order dated 30/06/2001. The

applicant was transferred from Wardha to Yavatmal on his own request. The material portion of the transfer order dated 30/06/2001 is reproduced below –

“- कार्यालयीन आदेश -

विनंती अर्जानुसार खालील लिपीक टंकलेखक कर्मचा-यांची त्यांच्या नावासमोर दर्शविल्याप्रमाणे बदली व पदस्थापिती करण्यात येत आहे.

अ.क्र.	कर्मचा-याचे नांव	कोठून	कोठे	शेरा
१.	श्री. आ.ह. मालवे	वर्धा मंच	बुलढाणा मंच	रिक्त पदावर
२.	श्री. अ.ला. राठोड	वर्धा मंच	यवतमाळ मंच	श्री. हेडाउ यांच्या जागी
३.	श्री. म.दा. तिमांडे	सहायक नियंत्रक जि.क्र. ४, मुंबई	वर्धा मंच	श्री. मालवे यांच्या जागी
४.	श्री. ह.की. वंजारी	सहायक नियंत्रक सोलापूर जि.	वर्धा मंच	श्री. राठोड यांच्या जागी
५.	श्री. रा.भि. बांगर	सिंधुदुर्ग मंच	सहायक नियंत्रक सोलापूर जि.	श्री. वंजारी यांच्या जागी
६.	श्री. ग.र.लोहकर	मुंबई उपनगर मंच	सहायक नियंत्रक यवतमाळ जि.	रिक्त जागी

वरील कर्मचा-यांची बदली ही विनंतीनुसार करण्यात आल्याने त्यांना नियमाप्रमाणे पदग्रहण अवधी व बदली प्रवासभत्ता अनुज्ञेय राहणार नाही. बदली झालेल्या कर्मचा-यांना पदस्थापितीच्या ठिकाणी रुजू होण्यासाठी तात्काळ कार्यमुक्त करावे.

वरील कर्मचा-यांच्या बदल्या त्यांच्या विनंतीनुसार करण्यात आल्यामुळे त्यांची जेष्ठता ही त्या त्या विभागात ते हजर होतील त्या दिनांकापासून धरण्यात येईल.”

5. As per the Rule 5 (7) it is for the competent authority to decide the seniority. Rule 5 (7) is reproduced below –

“(७) बदली झालेल्या शासकीय कर्मचा-याची ज्या पदावरून, संवर्गातून किंवा सेवेतून बदली झाली आहे त्याचा वर्ग आणि वेतनमान, त्यातील त्याचा सेवावधी आणि त्याच्या बदलीस कारणीभूत झालेली परिस्थिती ही यथायोग्यपणे लक्षात घेवून सक्षम प्राधिकारी ठरविल ती तारीख नेमणूकीची मानीव तारीख म्हणून नेमून दिली जाईल. जर बदली झालेल्या शासकीय कर्मचा-याची नेमणूक आयोगाशी विचारविनिमय करून झाली असेल तर आयोगाशी विचारविनिमय करून मानीव तारीख निर्धारित केली जाईल.”

6. The applicant was transferred in the year 2001. The applicant has filed this O.A. in the year 2019 with a contention that he had made objection in the year 1998 for the seniority list. The applicant also prayed in this O.A. that his seniority is wrongly shown at the transferred place at Yavatmal.

7. The Government of Maharashtra has given guidelines in respect of the request transfer. As per the guidelines, the employee who seeks transfer on his own request from the parent district to his home district or any other district of his choice and if the request transfer is allowed, then he has to loose his seniority and his seniority is to be fixed at the transferred place. The applicant was transferred in the year 2001. The applicant has raised objection in the year 1998 in respect of seniority list prepared at Wardha. The applicant's seniority was to be decided by the competent authority as per rule 5 (7) of the Rule dated 21/06/1982. The transfer order itself is very clear. As per the transfer order, the seniority of the applicant is to be decided from the date on which he joined at the transferred place. The applicant has accepted the request transfer order dated 30/06/2001. The applicant was well aware that his seniority at the earlier district, i.e., at Wardha will not be maintained. Moreover, the applicant raised objection in respect of seniority list of Wardha itself in the year 1998. As per the guidelines of the Government of Maharashtra in respect of

request transfer, the seniority of transferred employee on his own request is to be decided at the transferred place. As per the settled law he has to loose seniority from his earlier district and he will be junior in his cadre at the transferred place (own request).

8. The learned counsel for applicant has pointed out Rule 7 of the Maharashtra Civil Services (Regulation of seniority) Rules, 1982 which is in respect of the preparation of gradation list. It is not applicable to the applicant. The applicant was transferred in the year 2001. As per the contention of the applicant, he had made objection in the year 1998 in respect of list prepared at Wardha. The transfer order clearly shows that his seniority will be decided after joining at Yavatmal by the competent authority. Rules dated 21/06/1982 are very clear. As per rule 5 (7) of the said rules, it is for the competent authority to decide the seniority of the applicant. Hence, the applicant is not entitled for relief as prayed. Hence, we proceed to pass the following order –

ORDER

The O.A. is dismissed with no order as to costs.

**(Nitin Gadre)
Member(A).**

**(Justice M.G.Giratkar)
Vice Chairman.**

Dated :- 25/09/2024.
dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman and Member (A).

Judgment signed on : 25/09/2024.