

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

MISC APPLICATION NO 268 OF 2024

IN

ORIGINAL APPLICATION NO 207 OF 2023

ALONG WITH

ORIGINAL APPLICATION NOS 203 & 570/2024

DISTRICT : MUMBAI

Mr Sandip A. Patil)...**Applicant**

In the matter between

ORIGINAL APPLICATION NO. 207 OF 2023

Dinesh J. Khonde)...**Applicant**

Versus

The State of Maharashtra & Ors)...**Respondents**

In the matter between

ORIGINAL APPLICATION NO 203 OF 2024

Mrs Samisha Survase)... **Applicant**

Versus

The State of Maharashtra & Ors)...**Respondents**

With

ORIGINAL APPLICATION NO 570 OF 2024

Mr Sandip A. Patil)...**Applicant**

Versus

The State of Maharashtra & Ors)...**Respondents**

Shri Ravi Shetty with Shri S.S Dere, learned advocate for the Applicant.

Shri Sandesh Shukla a/w Mr Vivek Patil, learned counsel for the applicant in O.A 207/2023.

Smt K.S Gaikwad, learned Presenting Officer for the Respondents in O.A 570/2024.

Shri M.D Lonkar, learned Counsel for the Respondent-State in O.A 203/2024.

Shri B.A Bandiwadekar, learned counsel for the Respondent in O.A 570

CORAM : Justice Mridula Bhatkar (Chairperson)

DATE : 19.06.2024

J U D G M E N T

1. This Misc Application is filed under Section 25 of the Administrative Tribunals Act, 1985 by the applicant for transferring of O.A 207/2023, which is pending before the Aurangabad Bench to the Principal Bench at Mumbai and place it along with O.A 203/2024 filed by Samidha Survase & Ors and the present O.A 570/2024 filed by the present applicant.

2. Learned counsel Mr Shetty submitted that in all these matters G.R dated 5 .2.2024 is relevant as by which the applicant in O.A 570/2024 is transferred along with his post as Chief Engineer, Electrical and the additional charge of the post of Chief Electrical Inspector in Energy Department is given to him. Learned counsel further submitted that the applicant in O.A 207/2023 had challenged the appointment of the present applicant and made him the Respondent in the said Original Application filed in the Tribunal at Aurangabad. The applicant in O.A 207/2023 was working initially as Superintending Engineer in Energy Department and was given the additional charge of the post

of Chief Electrical Inspector, Energy Department. Therefore, he has challenged the G.R dated 3.2.2023 by which the Respondent in O.A 207/2023, (i.e., the present applicant in O.A 570/2024) was given the additional charge of the post of Chief Electrical Inspector, Energy Department. In O.A 207/2023 filed in June, 2023 before the Aurangabad Bench the G.R dated 3.2.2023 is challenged. Learned counsel Mr Shetty has argued that applicant in O.A 207/2023, in fact, needs to challenge the G.R dated 5.2.2024 and without challenging the said G.R, the Original Application No. 207/2023 will become infructuous. Learned counsel Mr Shetty has further submitted that as the issue involved in all the three Original Applications is one and the same and with a view to avoid multiplicity of litigations and contrary decisions and in the interest of all the parties, the matter, i.e., O.A 207/2023 filed before the Aurangabad Bench be transferred to the Principal Bench at Mumbai. Learned counsel has further argued that if it is not transferred, then only his O.A No 570/2024 is to be transferred to Aurangabad Bench, though it will cause lot of inconvenience to the applicant. Learned counsel has pointed out that 47 applicants in O.A 203/2024 are also made party-Respondents in the present Misc Application by way of amendment, and therefore, that O.A 203/2024 is also to be transferred to the Aurangabad Bench.

3. Learned counsel Mr Bandiwadekar appearing for the Respondents (applicants in O.A 203/2024) adopts all the submissions made by learned counsel Mr Shetty for the applicant in the present Misc Application.

4. Learned counsel for Respondent No. 1, i.e., applicant in O.A 207/2023, is the main contesting party in the present Misc Application. Learned counsel for the present Respondent No. 1 (applicant in O.A 207/2023) has submitted that the basis of O.A

207/2023 is not the G.R dated 5.2.2024, but it completely rests on the G.R dated 3.2.2023, by which the additional charge of the post of Chief Electrical Inspector, Energy Department was given to the present Respondent and also the applicant Mr S.A Patil in O.A 570/2024. This deadlock is required to be solved by the Tribunal at Aurangabad Bench. Learned counsel submitted that the applicant has filed O.A 207/2023 before the Aurangabad Bench in June, 2023 challenging the G.R dated 3.2.2023. The applicant in the present Misc Application is also a Party-Respondent in the said O.A 207/2023 before the Aurangabad Bench. Learned counsel submitted that the pleadings in the said matter are complete and the matter is peremptorily fixed for hearing on 21.6.2024.

5. Learned counsel Mr Lonkar, appearing for the Respondent-State in O.A 203/2024 is present before the Tribunal today as O.A 203/2024 is shown on Board along with O.A 570/2024. Learned counsel submitted that the issue involved in O.A 207/2023 and other two O.As, i.e., O.A 203/2024 & 570/2024 may apparently look alike, however, there is a difference in the relief claimed and the basic issue involved therein.

6. Learned P.O Smt K.S Gaikwad appearing for Respondent Nos 1 & 2 submitted that she has not received instructions from the Respondent, Department of Energy till today.

7. Admittedly O.A 207/2023 is filed by the private Respondent before the Aurangabad Bench in June, 2023 wherein G.R dated 3.2.2023 is challenged and G.R dated 5.2.2024 is not challenged. The present Misc Application is filed by the applicant under Section 25 of the Administrative Tribunals Act, 1985 for transferring O.A 207/2023 from Aurangabad Bench to the Principal Bench at Mumbai. So I have to take into account reliefs

claimed in both the Original Applications in the interest of administration and justice to avoid the multiplicity of the litigations, the basic issue is required to be considered. Hence, merit of the cases not to be looked into. The pleadings in O.A 207/2023 are complete and the pleadings in O.A 570/2024 are yet to be completed as the Respondents have to file affidavit in reply wherein challenge is given to G.R dated 5.2.2024. Further in O.A 203/2024 all the pleadings are complete and matter was heard to some extent in April, 2024 but was made D-Part heard. Accordingly, the Original Applications No 203/2024 and 570/2024 are required to be clubbed together and heard at Aurangabad Bench.

8. So far as the prayer for transfer of O.A 207/2023 to the Principal Bench is concerned, I am not inclined to grant the said prayer for two reasons:-

- (i) I am informed by the learned counsel for the applicant that reply is filed by the Respondent in the said Original Application. Learned counsel Mr Shetty on instructions from the applicant who is present in the Court submitted that no reply is filed in O.A 207/2023. However, the matter is fixed on 21.6.2024.
- (ii) At present at Mumbai Bench, the Chairperson is only working Judicial Member and taking matters of two Division Benches as one post of Judicial Member is vacant since last one year. Hence, it is not possible for this Tribunal to proceed with the matters immediately. Further the pleadings in O.A 570/2024 are not yet completed.

9. Hence, the prayer of the applicant in the present Misc Application to transfer O.A 207/2023, pending before the Aurangabad Bench to the Principal Bench at Mumbai is rejected. However, as the applicant in both O.A Nos 203/2024 and 570/2024 want to go before the Aurangabad Bench, where the Bench at Aurangabad is working with full Coram, I hereby transfer O.A Nos 203/2024 & 570/2024, pending before the Principal Bench at Mumbai to Aurangabad Bench and are placed on Board on 21.6.2024. The Registry is directed to transfer all the record and proceedings in both the O.A Nos 203/2024 & 570/2024 to the Aurangabad Bench. The applicants in O.A Nos 203/2024 & 570/2024, if they want to take original record of their respective matters, then Hamdast allowed.

10. With the above directions, the Misc Application stands disposed of.

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 19.06.2024
Dictation taken by : A.K. Nair.