

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 429 OF 2017

DISTRICT : THANE

Shri Pradip Babulal Pawar,)
Occ : Block Development Officer, Class-I)
Panchayat Samiti, Roha, Dist-Raigad.)
R/o: A/702, Sunflower, Flower Valley,)
Khadakpada Circle, Kalyan [W],)
Dist-Thane.)...**Applicant**

Versus

The State of Maharashtra)
Through Principal Secretary,)
Rural Development Department,)
Having office at Mantralaya,)
Mumbai 400 032.)...**Respondents**

Shri A.V Bandiwadekar, learned advocate for the Applicant.

Ms Savita Suryavanshi, learned Presenting Officer for the Respondent.

CORAM : **Shri Justice A.H Joshi (Chairman)**

RESERVED ON : **17.01.2018**

PRONOUNCED ON : **29.01.2018**

ORDER

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicant and Ms Savita Suryavanshi, learned Presenting Officer for the Respondent.

2. By this Original Application, applicant has approached this Tribunal for following reliefs:-

- (a) By a suitable order/direction this Hon'ble Tribunal may be pleased to hold and declare that as illegal and bad in law the order dated 12.5.2017 passed by the Respondent to the extent to which the same has failed to consider the request of the Petitioner for modified posting order on promotion as Block Development Officer from Panchayat Samiti, Roha, Dist-Raigad to the vacant post of the Block Development Officer, Panchayat Samiti, Bhiwandi, Dist-Thane/Block Development Officer, Panchayat Samiti, Kalyan, Dist-Thane in the light of the proviso to Rule 12 of the Revenue Division Allotment by way of promotion etc. Rules 2015 as amended on 16.7.2015 and accordingly the Petitioner be granted all the consequential service benefits, as if the impugned order had not been passed.
- (b) By a suitable order/direction, this Hon'ble Tribunal may be pleased to set aside the order dated 11.1.2017 passed by the Respondent [Exhibit-A] to the extent of posting of the Petitioner on promotion to Panchayat Samiti, Roha, Dist-Raigad as Block Development Officer and instead the Respondent be directed to post the Petitioner on request in vacant post of the Block Development Officer, Panchayat Samiti, Bhiwandi, Dist-Thane/the Block Development Officer, Panchayat Samiti, Kalyan, Dist-Thane as per the proviso to Rule 12 of the Revenue Division Allotment by way of promotion etc. Rules 2015 as amended on 16.7.2015 and accordingly the Petitioner be granted all the consequential service benefits, as if the impugned order had not been passed.”
(Quoted from pages 14 & 15 of O.A)

3. In the course of hearing, learned advocate for the applicant submits and concedes as follows:-

- (a) Exact claim of the applicant as pleaded in the Original Applicant was inchoate.
- (b) Applicant has discovered the real grievance and illegality after receiving the reply of the State and applicant would like to place reliance for the relief sought in the Original Application on the contents of para 2 of the rejoinder.

4. The compass of controversy has thus been narrowed down.

5. Applicant's case thus revolved around averments contained in para 2 of the rejoinder which reads as follows:-

"2. At the further outset, I say that according to the Respondent my posting at Dahanu was recommended by the Civil Services Board but such a recommendation was not taken into consideration by the Hon'ble Minister who accordingly again said to have referred the matter to the Civil Services Board. That again the Civil Services Board is said to have maintained their earlier recommendation in my favour. I say that in spite of this surprising the Hon'ble Minister again decided to accept such recommendations. That in view of this and in all fairness, the Hon'ble Minister was required to assign the good and valid reasons for such disagreement. I say that this is conspicuously absent in the present case and therefore, it is clear that the Hon'ble Minister acted with the bias and prejudice against me, so also contrary to the amended provisions of Rule 12 as referred to above."

6. The averments contained in the rejoinder in para 2 is replied by the State in its sur-rejoinder dated 10.8.2017, which is on record at page 113 onwards. The allegations of malafides are denied by the Respondent.

7. The limited point as to what is the foundation of applicant's claim can be and is culled out from above quoted para. Said point is described as follows:-

Civil Services Board had vetted for recommending applicant's posting as Block Development Officer, at Panchayat Samiti, Kalyan, while Hon'ble Minister in the process of passing order did not accept the Civil Services Board's recommendations for posting the applicant at Panchayat Office, Kalyan, instead directed applicant's posting elsewhere, i.e. at Panchayat Samiti, Roha, Dist-Raigad.

8. It is thus evident that Applicant's claim in present Original Application is based on his wishes.

9. For matters of absolute executive decision and in absence of violation of provisions of law, rather than a venture, the applicant has fallen into an imprudent adventure of claiming a posting without even showing that the action on the part of the executive is vitiated due to illegality.

10. Alleging prejudicial conduct and bias against executive is an easier discourtesy when done without an iota of evidence at hand. Alleging malice even in an indirect manner in which applicant has done is gross discourtesy.

11. Thus Original Application is based on aspiration and expectations than a legal right. It does not call indulgence whatsoever and is dismissed with costs.

Sd/-
(A.H. Joshi, J.)
Chairman

Place : Mumbai
Date : 29.01.2018
Dictation taken by : A.K. Nair.