

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.709 OF 2020

**DISTRICT: KOLHAPUR
SUBJECT: REVERSION
(POSTING ON LOWER POST)**

Shri Dattatraya Bapu Karpe,)
Age 53 years, Occupation Service, 713/694)
Plot No.157, Opp. Swati Residency Gagijanan Maharaj)
Nagar, Kolhapur 416012.)... **Applicant**

Versus

- 1) The Secretary,)
Animal Husbandry, Dairy Development)
And Fisheries Department, Mantralaya,)
Mumbai-32.)
- 2) Commissioner of Animal Husbandry)
Maharashtra State, Aundh Pune 411067.)... **Respondents**

Shri Sunil B Gaikwad, learned Advocate for the Applicant.

Shri Ashok J. Chougule, learned Presenting Officer for the Respondents.

CORAM : Shri A.P. Kurhekar, Hon'ble Member (J)

DATE : 24.12.2021.

JUDGMENT

1. The Applicant has challenge order dated 02.09.2020 issued by The Joint Commissioner of Animal Husbandry, Dairy Development and Fisheries Department, Pune whereby request of the Applicant for reversion from the post of Clerk-Typist to the post of Dresser has been rejected.

2. The Applicant was initially appointed as group 'D' on the post of Attendant in 1990 and in 2010 he was given post of Dresser (group 'D'). Thereafter by order dated 15.11.2014 he was promoted to the post of

Clerk-Typist in group 'C'. Accordingly he accepted the promotion and started working on it. After working for six years on the promotional post he made representation on 27.04.2020 for reposting him on earlier post as Dresser. His grievance seems to have, that he was not getting proper pay for the post of Jr. Clerk since in the post of Dresser he already got benefit of Time Bound Promotion Scheme. Leaving aside the issue of the Applicant un-satisfaction about the pay scale and grade pay, fact remains he requested to post him on his lower post of Dresser. He again made representation on 09.09.2020 that he is unable to cope-up the work since he was given some additional charge.

3. It is on the above background, the Joint Commissioner of Animal Husbandry by order dated 02.09.2020, rejected the representation dated 27.07.2020 for reverting his post and giving him posting as a Dresser on the ground that several post of Clerk-Typist are vacant and from the point of administrative exigencies, his request is not acceptable. This order dated 02.09.2020 is under challenge in the present O.A.

4. Shri S.B. Gaikwad, learned Advocate for the Applicant sought to contend that in view of Rule 27 of Maharashtra Civil Services (General Conditions of Services) Rules, 1981, Applicant's request for the post of Dresser was required to be accepted. This is the only submission advanced by learned Advocate for the Applicant which is in fact totally incorrect is apparent from Rule 27 itself. Rule 27 of Maharashtra Civil Services (General Conditions of Services) Rules, 1981 is as under:-

"27. When transfer to a post carrying less pay is permissible.-(1)

A Government servant may be transferred from one post to another, provided that, except-

(a) on account of inefficiency or misbehaviour, or

(b) on his written request, or

(c) in anticipation of the abolition of the post on which he holds a lien, or

(d) where the medical certificate granted under Maharashtra Civil Services(pension) Rules, certifies the person to be fit for service of a less laborious character than that which he has been performing,

a Government servant shall not be transferred substantively to, or except in a case covered by rule 56 of Maharashtra Civil Services (Pay) Rules,1981 appointed to officiate in a post carrying less pay than the pay of the permanent post on which he holds a lien, or would hold a lien, had his lien not been suspended under rule 23.

(2) Nothing contained in sub-rule (1) of this rule or in sub-rule (30) of Rule 9 shall operate to prevent the re-transfer of a Government servant to the post on which he would hold a lien, had it not been suspended in accordance with the provision of sub-rule (1) of Rule 23.”

5. It is thus explicit that the Government servant cannot be transferred to the post carrying less pay on his application or request. In the present case the Applicant at his own made request for reversion to lower post of Dresser. Reversion to lower post could be made by departmental action, if any. As such, Rule 27 which is relied by learned Advocate for the Applicant himself goes against him. His case do not fall within said Rule.

6. Indeed, by G.R. dated 01.08.2019 issued by Government made it clear that once the Government servant accept the promotion he cannot deny it later. Refusal to promotion is permissible only when he is promoted and before accepting the promotional post Government servant for some reasons decline to accept promotion.

7. Whereas, in present case the Applicant was promoted in 2014 and availed benefits of promotional pay scale for 6 years. This being the position G.R. dated 01.08.2019 is of no help to the Applicant which indeed goes against him.

8. No other provision is pointed out for permitting the Government servant for reverting to lower post on his request. I therefore, see no

merit in the O.A. and challenge to the impugned order is devoid on merit.

9. The Original Application is dismissed, with no order as to costs.

Sd/-

(A.P. Kurhekar)
Member (J)

Place: Mumbai
Date: 24.12.2021
Dictation taken by: N.M. Naik.