

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.631 OF 2023

**DISTRICT: RAIGAD
SUBJECT: TRANSFER**

Shri Suresh Shankarrao Bawulgave,)
Age- 50 Yrs, Working as Assistant)
Fisheries Development Officer in the)
office of Wani Ali, Near Gandhi Statute, Uran)
Dist. Raigad under the office of)
The Assistant Commissioner, Fisheries,)
Alibag, Dist. Raigad,)
R/o. Ganesh Apartment, Mothe-Nagaon,)
Tal. Uran Dist. Raigad)... **Applicant**

Versus

- 1) The Commissioner of Fisheries)
[M.S.], Mumbai)
Having office at Mumbai)
- 2) Smt. Priyanka Bhoy)
Aged Adult, Occ. Assistant)
Fisheries Development Officer)
Dahanu, Dist. Palghar in the office of Assistant)
Commissioner, Fisheries,)
Thane-Palghar, Dist. Palghar)....**Respondents**

Shri Arvind V. Bandiwadekar, learned Advocate for the Applicant.

Smt. Archana B. Kololgi, learned Presenting Officer for the Respondents.

CORAM : DEBASHISH CHAKRABARTY, MEMBER (A)

DATE : 17.10.2024

J U D G M E N T

1. The Applicant who belong to cadre of 'Assistant Fisheries Development Officer' has invoked provisions of 'Section 19' of 'The Administrative Tribunal Act 1985' to challenge 'Office Order' dated 31.05.2023 of 'Commissioner of Fisheries Maharashtra State, Mumbai' by which he was transferred from post of 'Assistant Fisheries Development Officer (Licensing Officer) Uran, District Raigad' to post of 'Assistant Fisheries Development Officer, Galhati; District Jalna'.

2. The learned Advocate for Applicant stated that Applicant had been granted 'Interim Relief' on 06.06.2023 in this O.A. No. 631/2023 and thus continued to serve on post of 'Assistant Fisheries Development Officer (Licensing Officer) Uran, District Raigad'. However; Applicant came to be served with 'Suspension Order' dated 14.06.2023 issued by 'Commissioner of Fisheries Maharashtra State, Mumbai'. The 'Suspension Order' dated 14.06.2023 was then challenged by Applicant in O.A. No. 753/2023.

3. The learned Advocate for Applicant further stated that Applicant later came to be reinstated upon 'Suspension Order' dated 14.06.2023 issued by 'Commissioner of Fisheries Maharashtra State, Mumbai' being revoked by 'Judgment' dated 19.06.2024 in O.A. No. 753/2023.

4. The learned PO during course of hearing on 01.10.2024 of O.A. No. 631/2023 presented copy of letter dated 25.09.2024 of 'Commissioner of Fisheries Maharashtra State, Mumbai' addressed to 'Principal Secretary (Fisheries); Agriculture; Animal Husbandry, Dairy Development & Fisheries Department' wherein it is mentioned that recommendation has been made in meeting of 'CSB-2' held on 24.09.2024 to cancel earlier transfer of Applicant to post of 'Assistant Fisheries Development Officer, Galhati; District Jalna' by 'Office Order'

dated 31.05.2023 of 'Commissioner of Fisheries Maharashtra State, Mumbai'.

5. The learned PO upon query during course of hearing on 01.10.2024 sought instructions from officers present on behalf of 'Commissioner of Fisheries Maharashtra State, Mumbai' to mention that it would not be possible to provide 'Additional Information' if request of Applicant to be transferred back on earlier post of 'Assistant Fisheries Development Officer (Licensing Officer) Uran, District Raigad' would be considered after cancellation of his earlier transfer to post of 'Assistant Fisheries Development Officer, Galhati; District Jalna' by 'Office Order' dated 31.05.2023 of 'Commissioner of Fisheries Maharashtra State, Mumbai'.

6. The 'Commissioner of Fisheries Maharashtra State Mumbai' by 'Office Order' dated 24.06.2024 has transferred Applicant to post of 'Assistant Fisheries Development Officer' in 'Head Office' of 'Commissioner of Fisheries Maharashtra State Mumbai' but it was done as an 'Interim Arrangement' for implementation of 'Judgment' dated 19.06.2024 in O.A. No. 753/2023. The pertinent observations in 'Para 8' & 'Para 9' of the 'Judgment' of O.A. No. 753/2023 dated 19.06.2023 are reproduced below:-

"In this matter the Enquiry Officer submitted his report dated 22.12.2023 holding that the charges against the Applicant are not proved and the Applicant was exonerated. However, the disciplinary authority i.e. the Commissioner, Fisheries did not agree with the report of the Enquiry Officer and issued notice to the Applicant asking him to give reply within 15 days. The Applicant has submitted his reply. However, no decision has been taken in the matter. Furthermore it is to be noted that no review has been taken in the case of suspension".

"Therefore, in my considered opinion, no fruitful purpose would be served by continuing the applicant in further suspension. The suspension, therefore, deserves to be revoked and he has to be reinstated in service by giving suitable posting as competent authority deems fit."

7. The 'Commissioner of Fisheries Maharashtra State, Mumbai' by 'Officer Order' dated 24.06.2024 has thus implemented 'Judgment' dated 19.06.2024 in O.A. No. 753/2023 which had specifically directed as follows:-

The respondents shall reinstate the Applicant in service and are at liberty to give him suitable posting, as deem fit, within a month from today, subject to outcome of O.A. No. 631/2023 filed by the Applicant regarding transfer of the Applicant.

8. The 'Commissioner of Fisheries Maharashtra State Mumbai' in the above mentioned context was therefore expected to also submit proposal to 'Principal Secretary, (Fisheries); Agriculture Animal Husbandry, Dairy Development and Fisheries Department' alongwith recommendation made in meeting of 'CSB-2' held on 24.09.2024 about new post on which Applicant could be transferred after cancellation of earlier transfer to post of 'Assistant Fisheries Development Officer, Galhati, District Jalna' by 'Office Order' dated 31.05.2023 of 'Commissioner of Fisheries Maharashtra State, Mumbai'.

9. The 'Commissioner of Fisheries Maharashtra State, Mumbai' was also expected as 'Disciplinary Authority' to take expeditious 'Final Decision' under 'Rule 6' of 'MCS (D & A) Rules 1979' about outcome of 'Departmental Enquiry' conducted against Applicant after having informed him on 21.02.2024 regarding non acceptance of findings in 'Enquiry Report' submitted on 22.12.2023. However, it now appears that pendency of 'Departmental Enquiry' against Applicant was '*prima facie*' the reason for 'CSB-2' not making any recommendation for transfer of Applicant to some other post and persist with 'Interim Arrangement' to keep Applicant on post of 'Assistant Fisheries Development Officer' in 'Head Office' of 'Commissioner of Fisheries, Maharashtra State, Mumbai' which was to be subject to outcome of this O.A. No. 631/2023 as recorded in 'Judgment' dated 19.06.2024 in O.A. No. 753/2023.

10. The 'Commissioner of Fisheries Maharashtra State, Mumbai' had issued 'Suspension Order' dated 14.06.2023 soon after 'Office Order' dated 31.05.2023 regarding transfer of Applicant to post of 'Assistant Fisheries Development Officer, Galhati; District Jalna' had been stayed by way of 'Interim Relief' granted in O.A. No. 631/2023 on 06.06.2023. However, the 'Suspension Order' dated 14.06.2023 passed by 'Commissioner of Fisheries Maharashtra State, Mumbai' has since been revoked by 'Judgment' dated 19.06.2024 in O.A. No. 753/2024. Hence in the above mentioned backdrop it is directed that upon cancellation of earlier transfer of Applicant to post of 'Assistant Fisheries Development Officer, Galhati, District Jalna'; in all fairness the Applicant should be transferred back to earlier post of 'Assistant Fisheries Department Officer, (Licensing Officer) Uran, District Raigad' which was held by him at time of issue of 'Suspension Order' dated 14.06.2023 by 'Commissioner of Fisheries Maharashtra State, Mumbai' soon after 'Interim Relief' had been granted in O.A. No. 631/2023 on 06.06.2023.

11. The 'Interim Relief' granted to Applicant in O.A. No. 631/2023 on 06.06.2023 constitutes an independent reasoned 'Interim Order' passed under provisions of 'Section 24' of 'The Administrative Tribunals Act 1985': Further; it is equally pertinent to observe that 'Interim Relief' granted to Applicant in O.A. No. 631/2023 on 06.06.2023 was never challenged in appeal nor was it vacated and thus it had subsisted through the time span of 'Suspension Period' of Applicant from 14.06.2023 upto 19.06.2024.

12. The 'Commissioner of Fisheries Maharashtra State, Mumbai' therefore for reasons mentioned above to issue 'Office Order' to transfer Applicant to earlier post of 'Assistant Fisheries Development Officer (Licensing Officer) Uran, District Raigad' which he continued to hold as per 'Interim Relief' granted on 06.06.2023 in O.A. No. 631/2023 till being removed due to 'Suspension Order' dated 14.06.2023 issued by 'Commissioner of Fisheries Maharashtra State, Mumbai'.

13. The 'Commissioner of Fisheries Maharashtra State, Mumbai' to issue new 'Office Order' for transfer of Applicant to earlier post of 'Assistant Fisheries Development Officer (Licensing Officer) Uran, District Raigad' within next 'Four Weeks' by considering peculiar facts & circumstances of the case of Applicant as constituting 'Special Reasons' under provisions of 'Section 4(4)(ii)' and 'Section 4(5)' of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'. However; in peculiar facts & circumstances of the case of Applicant; it is equally necessary to observe that Applicant will thereafter be entitled to serve on post of 'Assistant Fisheries Development Officer, (Licensing Officer) Uran, District Raigad' only for the balance period of 'Normal Tenure of 3 Years' as per entitlement under provision of 'Section 3(1)' read with 'Section 4(1)' of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'.

ORDER

- 1) Original Application No. 631 of 2023 is Allowed.
- 2) No Order as to Costs.

Sd/-
(Debashish Chakrabarty)
Member (A)

Place: Mumbai
Date: 17.10.2024
Dictation taken by: A.G. Rajeshirke

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