

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.818 OF 2023

**DISTRICT : NASHIK
SUBJECT : TRANSFER**

Dr. (Shri) Dilip Abaji Shengal,)
Aged 38 Yrs, Worked as Live Stock Development)
Officer in Veterinary Dispensary (Grade -1), Girnare,)
Tal. Igatpuri, Dist. Nashik,)
R/o. Prathamesh Residency, Flat No.14,)
Trikon Bunglow, Panchavati, Nashik.)... **Applicant**

Versus

The State of Maharashtra,)
Through the Principal Secretary, Animal Husbandry,)
Having Office at Mantralaya, Mumbai – 400 032.)...**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 : 29.10.2024.

JUDGMENT

1. The Applicant who belongs to cadre of 'Livestock Development Officer' has invoked provisions of 'Section 19' of 'The Administrative Tribunal Act, 1985' to seek transfer to any post from amongst 5' Options' in 'Nashik District' submitted by him on 17.04.2023 prior to 'General Transfers 2023' by relying on 'Policy Guidelines' in 'G.A.D. Circular dated 11.07.2000' applicable to 'Government Servants' who serve in 'Tribal & Semi Tribal Tahsils' identified by 'Tribal Development Department' G.R. dated 09.03.1990.

2. The learned Advocate for Applicant stated that by 'Government Order' dated 15.05.2023 of 'Animal Husbandry, Dairy Development and Fisheries Department'; the Applicant came to be transferred to post of 'Livestock Development Officer' at 'Nannaj, Tahsil Jamkhed, District Ahmednagar' during 'General Transfer: 2023' although Applicant had submitted '5 Options' on 17.04.2023 for transfer to any posts from amongst '5 Options' in 'Nashik District'.

3. The learned Advocate for Applicant further stated that as 'Animal Husbandry, Dairy Development and Fisheries Department' did not implement 'Policy Guidelines' in 'G.A.D. Circular dated 11.07.2000'; consequently none amongst '5 Options' in 'Nashik District' submitted on 17.04.2023 by Applicant during 'General Transfers 2023' came to be considered by 'CSB' although he had earlier served on post of 'Live Stock Development Officer at Girnare; Taluka Igatpuri, District Nashik which is included in 'Tribal & Semi Tribal Tahsils' identified by 'Tribal Development Department' G.R. dated 09.03.1990.

4. The learned Advocate for Applicant thereupon contented that request of Applicant for transfer to any posts from amongst '5 Options' in 'Nasik District' which was submitted on 17.04.2023 during 'General Transfer 2023' should have been considered by 'Animal Husbandry, Dairy Development and Fisheries Department' based on 'Policy Guidelines' in 'G.A.D. Circular dated 11.07.2000' which entitles 'Government Servants' to precedence over others in matters of transfers if they had earlier served in 'Tribal & Semi Tribal Tahsils' identified by 'Tribal Development Department' G.R. dated 09.03.1990.

5. The learned Advocate for Applicant submitted that 'Agriculture, Animal Husbandry, Dairy Development & Fisheries Department' did not even consider subsequent representation made by Applicant on 15.05.2023 again giving '3 Options' including seeking due consideration of the '5th Choice' from amongst '5 Options' in 'Nasik District' submitted

on 17.04.2023 during 'General Transfer: 2023' which was for 'Vacant Post' of 'Livestock Development Officer'; at 'Veterinary Polyclinic Nashik; Tahsil Nashik; District Nashik'.

6. The learned Advocate for Applicant contended that 'Agriculture, Animal Husbandry, Dairy Development & Fisheries Department' instead in 'Affidavit-in-Reply' dated 21.08.2023 has strangely affirmed only about implementation of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'; but rendered 'Policy Guidelines' in 'G.A.D. Circular dated 11.07.2000' to state of nihility by mentioning it has now become completely 'Out of Place'.

7. The use of vague phrase such as 'Out of Place' in 'Affidavit-in-Reply' dated 21.08.2023 filed by 'Agriculture, Animal Husbandry, Dairy Development & Fisheries Department' was thus '*de-facto*' attempt to render 'G.A.D. Circular dated 11.07.2000' not applicable to 'Government Servants'. However, such ambiguous stance of 'Agriculture, Animal Husbandry, Dairy Development & Fisheries Department' could not have been accepted on its face value and was required to be questioned during course of hearing as it related to implementation of time tested progressive 'Policy Guidelines' about giving precedence during transfers to Government Servants who have served in 'Tribal & Semi Tribal Tahsils' identified by 'Tribal Development Department' G.R. dated 09.03.1990. The case of Applicant had thus exposed the deep entrenched resistance within 'Animal Husbandry, Fisheries and Dairy Development Department' to implement of 'G.A.D. Circular dated 11.07.2000' made applicable since long perusal of time to 'Government Servants' who serve in 'Tribal & Semi Tribal Tahsils' identified by 'Tribal Development Department' G.R. dated 09.03.1990 and which predates 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'.

8. The affirmations made in 'Affidavit-in-Reply' filed on 21.08.2023 by Agriculture, Animal Husbandry, Dairy Development & Fisheries Department were not only adversarial to case of Applicant but also somewhat strange; since they had in the past granted precedence during transfers to many other 'Government Servants' including from cadre of 'Livestock Development Officer' as they had earlier served in 'Tribal & Semi Tribal Tahsils' identified by 'Tribal Development Department' G.R. dated 09.03.1990 diligent implementation of 'Policy Guidelines' in G.A.D. Circular dated 11.07.2000. The 'Government Order' dated 31.05.2018 of Agriculture, Animal Husbandry, Dairy Development & Fisheries Department which was placed on record by Applicant does include names of few 'Government Servants' from cadre of 'Livestock Development Officers' who had been granted their choices regarding place of transfer as they had earlier served in 'Tribal & Semi Tribal Tahsils' identified by 'Tribal Development Department' G.R. dated 09.03.1990. Further it was pointed out by Applicant during course of hearing that by (i) 'Judgment' dated 07.01.2019 in O.A. No.335/2018 directions were given to 'Home Department' & (ii) 'Judgment' dated 13.12.2021 in O.A. No.684/2021 directions were given to 'Women & Child Department' to transfer the Applicants therein as per their choices of places of transfer based on 'Policy Guidelines' in G.A.D. Circular dated 11.07.2000.

9. The 'Agriculture, Animal Husbandry, Dairy Development & Fisheries Department' against this curious backdrop and for reasons that progressive 'Policy Guidelines' in 'G.A.D. Circular dated 11.07.2000' has been implemented for long periods of time by many other 'Administrative Departments' was thereupon accorded another fair opportunity to redeem itself by acknowledging that affirmation made in 'Affidavit-in-Reply' dated 21.08.2023 may have been due to inadvertence and they could choose to make fresh affirmation not only about status of implementation of progressive 'Policy Guidelines' in 'G.A.D. Circular dated 11.07.2000' but also about complementary 'Policy Guidelines' in

‘G.A.D. G.R. dated 06.08.2002’ made applicable specifically to ‘Government Servants’ who serve in ‘LWE Affected Areas’ determined by ‘Ministry of Home Affairs GOI’. The ‘Agriculture, Animal Husbandry, Dairy Development & Fisheries Department’ then chose to make reference to G.A.D.

10. The G.A.D. is nodal ‘Administrative Department’ dealing with implementation of ‘Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005’ but importantly had played an anchor role in formulation of these progressive ‘Policy Guidelines’ regarding giving precedence about place of transfers to ‘Government Servant’ who have earlier served in ‘Tribal & Semi Tribal Tahsils’ identified by ‘Tribal Development Department’ G.R. dated 09.03.1990 & ‘LWE Affected Areas’ determined by ‘Minority of Home Affairs GOI. Besides, GAD has even brought them to fruition over several years by directly overseeing implementation of (i) G.A.D. Circular dated 11.07.2000 and (ii) G.A.D. G.R. dated 06.08.2002. Hence, GAD was directed during course of hearing to undertake diligent review of these progressive ‘Policy Guidelines’ from overall perspective of encouragement they provide to ‘Government Servants’. The GAD thus had the important role in ensuring that appropriate advice was provided to ‘Agriculture, Animal Husbandry, Dairy Development & Fisheries Department’ so as to enable them to reaffirm their well thought out response to case of Applicant.

11. The G.A.D. gave advice to ‘Agriculture, Animal Husbandry, Dairy Development & Fisheries Department’ based on contents of G.A.D. Circular dated 07.06.2006 which even by extrapolation could not have meant that enduring progressive ‘Policy Guidelines’ in (i) G.A.D. Circular dated 11.07.2000 and (ii) G.A.D. G.R. dated 06.08.2002 had stood rescinded with effect from 01.07.2006 following implementation of ‘Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005’ as there

was no mention of (i) G.A.D. Circular dated 11.07.2000 and (ii) G.A.D. G.R. dated 06.08.2002 amongst array of several other (a) 'G.A.D.-GRs' & (b) 'G.A.D.-Circulars' under caption of referenced documents in 'GAD Circular dated 07.06.2006'. Hence no conclusion could be arrived at as to whether these had indeed been rescinded by 'G.A.D. Circular dated 07.06.2006'.

12. The G.A.D. did give advice to 'Agriculture, Animal Husbandry, Dairy Development & Fisheries Department' based on GAD Circular dated 07.06.2006 but it appeared to have been hastily conveyed without diligently collating factual information as was expected from all 'Administrative Departments' about present status of implementation of (i) G.A.D. Circular dated 11.07.2000 and (ii) G.A.D. G.R. dated 06.08.2002 since promulgation of 'GAD Circular dated 07.06.2006'. The initial advice given by G.A.D. to 'Agriculture, Animal Husbandry, Dairy Development & Fisheries Department' reads as follows:-

“महाराष्ट्र शासकीय कर्मचा-यांचे बदल्यांचे विनियमन आणि शासकीय कर्तव्य पार पाडताना होणा-या विलंबास प्रतिबंध अधिनियम २००५ हा दि.०१.०७.२००६ रोजी लागू झाल्याने सदर अधिनियम अस्तित्वात येण्यापूर्वी बदली करण्यासंदर्भातील साप्रवीचे सर्व आदेश अधिक्रमित करण्यात आले असल्याचे साप्रवी, शासन परिपत्रक दि.०७.०६. २००६ मध्ये नमूद केले आहे. त्यानुसार आदिवासी क्षेत्रात काम केलेल्या अधिकारी/ कर्मचारी यांना पसंतीच्या ठिकाणी बदली देणेबाबतचे सामान्य प्रशासन विभागाचे दि. ११.०७.२००० चे शासन परिपत्रक अधिक्रमित झाले असून दि.०६.०८.२००२ च्या शासन निर्णयातील तरतुदीनुसार पसंतीच्या ठिकाणी बदली करण्याबाबतची तरतूदही अधिक्रमित झाली आहे”.

13. The G.A.D. in its initial advice to 'Agriculture, Animal Husbandry, Dairy Development & Fisheries Department' as reproduced above was rather inward looking; and thus it was difficult to reconcile if (i) G.A.D. Circular dated 11.07.2000 and (ii) G.A.D. G.R. dated 06.08.2002 having been so widely brought into implementation by all 'Administrative Departments' could not have been even in existence since issue of 'GAD Circular dated 07.06.2006'. Further adequate caution had be exercised to rule out possibility of earlier advisories given by GAD becoming contrarian to the initial advice rendered to 'Animal Husbandry, Dairy Development & Fisheries Department'.

14. The 'Agriculture, Animal Husbandry, Dairy Development & Fisheries Department' was therefore directed during course of further hearing to submit proposal to 'G.A.D.' for their reconsideration of initial advice; as it was very evident from reasons mentioned above that (i) G.A.D. Circular dated 11.07.2000 & (ii) G.A.D. GR dated 06.08.2002 that although affirmed otherwise by 'Affidavit-in-Reply' dated 21.08.2023 of 'Agriculture, Animal Husbandry, Dairy Development & Fisheries Department', had not been obliterated by 'G.A.D. Circular dated 07.06.2006'.

15. The (i) G.A.D. Circular dated 11.07.2000 & (ii) G.A.D. GR dated 06.08.2002 are standalone progressive 'Policy Guidelines' issued primarily to encourage Government Servants to serve in challenging work environments in 'Tribal & Semi Tribal Tahsils' identified by 'Tribal Development Department' G.R. dated 09.03.1990 & 'LWE Affected Areas' determined by 'Ministry of Home Affairs GOI'. However; if these had indeed been placed in casket of rescinded 'Policy Guidelines' with effect from 01.07.2006 after issue of GAD Circular dated 07.06.2006; then it was serious enough to be looked into very cautiously at level of 'Chief Secretary, Government of Maharashtra'. So, indulgence of 'Chief Secretary, Government of Maharashtra' was sought in order to ensure that well thought out & justiciable stand could be taken by GAD and made applicable across 'Administrative Departments' after being placed on record by 'Agriculture, Animal Husbandry, Dairy Development & Fisheries Department' and naturally getting in recorded 'Judgment' of present OA No.818 of 2023.

16. The (i) G.A.D. Circular dated 11.07.2000 & (ii) G.A.D. GR dated 06.08.2002 if as opined initially by GAD to 'Animal Husbandry, Dairy Development and Fisheries Department' were indeed revoked with effect from 01.07.2006 by G.A.D. Circular dated 07.06.2006, then whether it was explicitly communicated to all 'Administrative Departments'; because as has been mentioned above there are numerous instances

since 01.07.2006 onwards till date when these progressive 'Policy Guidelines' formulated to motivate 'Government Servants' to voluntarily seek transfers to 'Tribal and Semi Tribal Tahasils' identified by 'Tribal Development Department' G.R. dated 09.03.1990 & 'LWE Affected Areas' determined by 'Ministry of Home Affairs GOI' having been implemented 'sou-moto' by all 'Administrative Departments'. Besides several other 'Service Benefits' such as 'One Step Promotion', 'Special Allowances' etc. are also being given to 'Government Servants' including 'Police Personnel' who serve in 'Tribal and Semi Tribal Tahasils' identified by 'Tribal Development Department' G.R. dated 09.03.1990 & 'LWE Affected Areas' determined by 'Ministry of Home Affairs GOI'.

17. The 'Chief Secretary Government of Maharashtra' therefore was expected to specifically review all these dimensions of enduring progressive 'Policy Guidelines' in (i) G.A.D. Circular dated 11.07.2000 & (ii) G.A.D. GR dated 06.08.2002 including assessment of probable adverse impact on delivery 'Citizen Services' and efficacy of 'Public Administration' if advice rendered GAD were to be accepted by 'Animal Husbandry, Dairy Development and Fisheries Department' for adjudication of the case of Applicant.

18. The imbroglio created by 'Animal Husbandry, Dairy Development and Fisheries Department' about implementation of (i) G.A.D. Circular dated 11.07.2000 and (ii) G.A.D. G.R. dated 06.08.2002 made it imperative to pass 'Interim Order' on 24.11.2023 to direct that post of 'Live Stock Development Officer at 'Veterinary Poly Clinic Nashik, Tahsil Nashik, District Nashik' which was '5th Choice' amongst '5 Options' in 'Nasik District' submitted by Applicant on 17.04.2023 prior to 'General Transfers: 2023' to be kept vacant by 'Animal Husbandry, Dairy Development and Fisheries Department'.

19. The post of 'Live Stock Development Officer, Veterinary Poly Clinic, Nashik' was accordingly kept vacant by 'Animal Husbandry, Dairy

Development & Fisheries Department' in observance of 'Interim Order' dated 24.11.2023. Thereafter; inspite of nudging GAD during further course of hearing to expeditiously address the crucial issue regarding implementation in future of (i) G.A.D. Circular dated 11.07.2000 and (ii) G.A.D. G.R. dated 06.08.2002 under guidance of 'Chief Secretary, Government of Maharashtra' no progress was perceived so it was further directed on 11.12.2023 by 'Interim Relief' granted to Applicant to also assign him 'Additional Charge' of 'Vacant Post' of 'Live Stock Development Officer' at 'Veterinary Poly Clinic Nashik, Tahsil Nashik, District Nashik'.

20. The 'Animal Husbandry, Dairy Development and Fisheries Department' has since implemented these directions and 'Additional Charge' of 'Vacant Post' of 'Live Stock Development Officer' at 'Veterinary Poly Clinic Nashik, Tahsil Nashik, District Nashik' was given to Applicant on 11.01.2024.

21. The 'Agriculture, Animal Husbandry, Dairy Development & Fisheries Department' however has not only stubbornly resisted without any rationale reconsideration of request of Applicant even after implementing order of 'Interim Relief' passed on 11.12.2023 but side stepped exacting directions given on 29.02.2024 that Applicant be posted on 'Vacant Post' of 'Live Stock Development Officer' at 'Veterinary Poly Clinic Nashik, Tahsil Nashik, District Nashik' as it was his '5th Choice' amongst '5 Options' in Nashik District submitted on 17.04.2023 prior to 'General Transfers: 2023' and was based on implementation of 'GAD Circular dated 11.07.2000'.

22. The 'Agriculture, Animal Husbandry, Dairy Development & Fisheries Department' in brazen contemptuous act after completion of hearing of this O.A. No.818/2023 has issued Government Order dated 31.08.2024 to fill up post of 'Live Stock Development Officer' at 'Veterinary Poly Clinic Nashik, Tahsil Nashik, District Nashik' by

transferring 'Live Stock Development Officer' at Chandwad, Tahsil Chandwad, District Nashik' instead of transferring Applicant who has holding 'Additional Charge' of the post as per 'Interim Relief' granted on 11.12.2023 besides concurrently serving on post of 'Live Stock Development Officer' at 'Nannaj; Taluka Jamkhed, District Ahmednagar' as per Government Order dated 15.05.2023 of 'Animal Husbandry, Dairy Development and Fisheries Department'.

23. The GAD Circular 11.07.2000 has enumerated procedural steps which are required to be observed by all 'Administrative Departments' while giving precedence about place of transfers to 'Government Servants' who have earlier served in 'Tribal and Semi Tribal Tahsils' identified by 'Tribal Development Department' G.R. dated 09.03.1990. The relevant extracts are as follows:-

- (ब) आदिवासी क्षेत्रात किमान २ वर्ष चांगले काम केलेल्या गट 'अ' व 'ब' च्या अधिका-यांना देखिल त्यांच्या पसंतीच्या जिल्ह्यात सोईनुसार नेमणूक देण्यात याव्यात.
- (क) वरीलप्रमाणे पसंतीच्या जिल्ह्यांत बदली मिळण्यासाठी, आदिवासी क्षेत्रात काम करणा-या अधिकारी / कर्मचारी यांनी उपरोक्त विहित कार्याकाल संपण्यापूर्वी किमान ३ महिने आधी त्यांच्या पसंतीच्या जिल्ह्यांची तीन नावे सक्षम प्राधिका-यांना कळवावीत व त्याची प्रत तो कार्यरत असलेल्या क्षेत्राच्या जिल्हाधिकारी/विभागीय आयुक्त यांना देण्यात यावी.
- ४. अधिकारी/कर्मचारी यांचेकडून बदलीसाठी पसंतीक्रम प्राप्त होताच सक्षम प्राधिका-यांनी संबंधितांचा विहित कार्यकाल संपताच त्यांच्या पसंतीच्या जिल्ह्यात बदलीसाठी आवश्यक ती कार्यवाही करावी. काही प्रशासकीय कारण्यास्तव पसंतीच्या जिल्ह्यात लगेचच बदली करणे शक्य नसल्यास सक्षम प्राधिका-यांनी अशी प्रकरणे तातडीने वरिष्ठांचे / शासनाने निदर्शनास आणून देवून त्यांचे आदेश प्राप्त करावेत व संबंधितास तसे कळवून त्यास अन्यत्र बदली दयावी. मात्र, असे करताना संबंधितांनी बदलीसाठी दिलेला पसंतीचा हक्क पुढील तीन वर्षेपर्यंत कायम ठेवून या वाढीव कालावधीत पसंतीच्या जिल्ह्यात बदली देणे आवश्यक राहिल.
- ५. आदिवासी विकास विभागाने त्यांच्या शासन निर्णय, क्रमांक-टाएसटी-१०८६/८७१०/प्र.क्र.३१/का-५, दिनांक:९.३.१९९० अन्वये

घोषित (सोबतच्या परिशिष्टाप्रमाणे) केलेल्या आदिवासी क्षेत्रात वरीलप्रमाणे काम केले असल्यासच अधिकारी/कर्मचा-यांना त्यांच्या पसंतीच्या जिल्ह्यात नेमणूक देण्यात यावी.

24. The high expectations from GAD that an unambiguous conscious decision would be arrived under guidance received from 'Chief Secretary, Government of Maharashtra' regarding future implementation of (i) G.A.D. Circular dated 11.07.2000 and (ii) G.A.D. G.R. dated 06.08.2002 were out-rightly belied upon issue of altogether new G.A.D. Circular dated 23.02.2024 which did not include any clear set of directions to 'Administrative Departments' about whether or not to consider future implementation of these time tested progressive 'Policy Guidelines' which had been formulated much prior to enactment of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'.

25. The grievance of Applicant in the peculiar facts and circumstances enumerated above will now have to be adjudicated with protection it deserves under 'Doctrine of Legitimate Expectation'; as there still persists deep sense of ambiguity both within 'Animal Husbandry, Dairy Development and Fisheries Department' and 'GAD' about future implementation of (i) G.A.D. Circular dated 11.07.2000 and (ii) G.A.D. G.R. dated 06.08.2002. The lament is that haziness about exact future status of these progressive 'Policy Guidelines' would persist until 'Government Circular GAD dated 23.02.2024' is further amended upfront & affirmatively to clearly rule out implementation 'G.A.D. Circular dated 11.07.2000' if it has been annulled by GAD Circular dated 07.06.2006.

26. The 'Doctrine of Legitimate Expectation' is now necessary to rely upon to adjudicate the grievance of Applicant. Hence it is imperative to mention about its basic intrinsic tenets and nature of applicability to decisions taken by any 'Administrative Authority':-

- a) The 'Doctrine of Legitimate Expectation' is invoked with expectation of any person to receive some benefit or relief, which is a consequence of a promise or representation, either express or implied made by the Administrative Authority concerned by its prior established practice. Hence, legitimate expectation of any person has to be treated in a particular way by the Administrative Authority or to give that person some benefit or relief as a matter of 'Public Law', although no such enforceable right is conferred under 'Private Law'.
- b) The legitimate expectations of any person does not depend upon the 'Moral Obligations' of the 'Administrative Authority'. Instead, legitimacy is decided based on the laws or at least the established practice of the 'Administrative Authority'. There must be an established and regular practice or an express promise on the part of the 'Administrative Authority'. The term established and regular practice would refer to those practices that are within the powers of the 'Administrative Authority' and have been performed regularly by the particular 'Administrative Authority' in the past for a considerable period and it is because of such prior, established practice, any person would have legitimate expectation from such 'Administrative Authority'.
- c) The decision taken by 'Administrative Authority' to grant of any benefit or relief to any person must not be arbitrary, unfair, unreasonable, and violative of the 'Principles of Natural Justice'. If it is found that 'Administrative Authority' has not considered factors such as 'Public Interest' or 'Policy Decisions' while passing an order then there is strong ground for invoking the 'Doctrine of Legitimate Expectation'.

27. The ***Hon'ble Supreme Court of India in Ram Pravesh Singh and Ors. v. State of Bihar and Ors.*** has explained about 'Doctrine of Legitimate Expectations' by observing that any person can be said to have a legitimate expectation of a particular treatment, if any representation or promise is made by an 'Administrative Authority', either expressly or impliedly, or if the regular and consistent past practice of the 'Administrative Authority' gives room for such expectation in the 'Normal Course'.

28. The ***Hon'ble Supreme Court in M. P. Oil Extraction and Anr. etc. v. State of Madhya Pradesh and Ors.***, has observed

that 'Doctrine of Legitimate Expectation' operates in the domain of 'Public Law' and in appropriate cases constitutes substantive and enforceable rights. Thus, although legitimate expectation of any person may not be an enforceable 'Legal Right', but if the same is not given due consideration by any 'Administrative Authority' in a decision-making process, it can then be said that decision taken by the 'Administrative Authority' has violated the principles of nonarbitrariness, which is an essential concomitant of the 'Rule of Law'.

29. The post of 'Live Stock Development Officer' at 'Veterinary Poly Clinic Nashik, Tahsil Nashik, District Nashik' was initially directed to be kept vacant on 23.11.2023 and thereafter Applicant was given 'Additional Charge' by way of 'Interim Relief' granted to him on 11.01.2024. Hence for reasons elaborated request of Applicant for transfer to 'Vacant Post' of 'Live Stock Development Officer' at 'Veterinary Poly Clinic Nashik, Tahsil Nashik, District Nashik' which was the '5th Choice' amongst '5 Options' in Nashik District submitted by Applicant on 17.04.2023 during 'General Transfers: 2023' by relying on 'Policy Guidelines' in 'GAD Circular 11.07.2000' will now have to be considered based on 'Doctrine of Legitimate Expectation'.

30. The 'Animal Husbandry, Dairy Development and Fisheries Department' is accordingly directed that Applicant be transferred to then available 'Vacant Post' of 'Live Stock Development Officer' at 'Veterinary Poly Clinic Nashik, Tahsil Nashik, District Nashik' which was the '5th Choice' amongst '5 Options' in Nashik District submitted on 17.04.2023 before 'General Transfers: 2023'. Further it would also not be out of context to re-emphasize that GAD Circular dated 11.07.2000 includes special clause of 'Promissory Nature' which requires all 'Administrative Departments' to grant such requests of 'Government Servants' about preference in place of transfer within substantial period of 3 Years.

31. The transfer of 'Live Stock Development Officer' at Chandwad, Tahsil Chandwad, District Nashik' to post of 'Live Stock Development Officer' at 'Veterinary Poly Clinic Nashik, Tahsil Nashik, District Nashik' was undoubtedly done surreptitiously given the fact that 'Interim Relief' had been granted to Applicant on 11.12.2023 and Applicant was also directed to be given 'Additional Charge of the post on 11.01.2024.

32. The prayer of Applicant in this O.A. No.818/2023 is therefore granted affirmatively based on 'Doctrine of Legitimate Expectation' and accordingly 'Animal Husbandry, Dairy Development and Fisheries Department' directed to transfer Applicant within 'Two Weeks' to post of 'Live Stock Development Officer' at 'Veterinary Poly Clinic Nashik, Tahsil Nashik, District Nashik'.

33. The new 'Policy Guidelines' which have been issued by Government Circular G.A.D. dated 23.02.2024 are at best only cryptic clarification that 'Government Servants' who serve in 'Tribal and Semi Tribal Tahsils' identified by 'Tribal Development Department' G.R. dated 09.03.1990 can henceforth be given preference in place of transfers but within limited 'Geographical Area' of 4 'Revenue Districts' subject of 'Administrative Exigencies'. The 'Government Circular G.A.D. dated 23.02.2024' makes no reference whatsoever about future continuation or otherwise of progressive 'Policy Guidelines' in (i) G.A.D. Circular dated 11.07.2000 and (ii) G.A.D. G.R. dated 06.08.2002. Hence is these time tested progressive 'Policy Guidelines' have outlived their objectives and are no longer required to be implemented by all 'Administrative Departments' then this actual intendment is required to be unambiguously expressed and out-rightly included by way of amendment to 'Government Circular dated 23.02.2024'.

34. The appropriate clarifications to Government Circular GAD dated 23.02.2024 regarding future implementation of (i) G.A.D. Circular dated 11.07.2000 and (ii) G.A.D. G.R. dated 06.08.2002 are absolutely

necessary; so that unlike Applicant many other 'Government Servants' during course of their future service are not required to harbor hopes that upon service in challenging work environments they will be given any preference in place of transfer and would be treated equitably like all 'Government Servants' under communis 'Policy Guidelines' of 'GAD GR dated 09.04.2018' and governed only by provisions of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005'.

35. The copy this 'Judgment' for reasons and observations recorded above be forwarded to (i) 'Chief Secretary Government of Maharashtra' (ii) 'Additional Chief Secretary (Services)' GAD in order to inform them to expeditiously initiate appropriate action for amendment to new Government Circular GAD dated 23.02.2024.

ORDER

- (i) The Original Application No. 818/2023 is Allowed.
- (ii) The Applicant to be transferred within 'Two Weeks' to post of 'Live Stock Development Officer' at 'Veterinary Poly Clinic Nashik, Tahsil Nashik, District Nashik'.
- (iii) No Order as to Costs.

Sd/-
(Debashish Chakrabarty)
Member (A)

Place: Mumbai
Date: 29.10.2024
Dictation taken by: N.M. Naik.

Uploaded on: _____