

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 401 OF 2015

DISTRICT : PUNE

Smt Sangita Ramchandra Mane,)
Working as Deputy Director)
[Agro Processing], in the office of)
Commissioner for Agriculture, [M.S])
Pune. R/o: Bopkhel, Ganeshnagar,)
Tal-Haveli, Dist-Pune.)
Add for service of notice:)
Shri A.V Bandiwadekar, advocate,)
9, Ram Kripa, Lt Dilip Gupte Marg,)
Mahim, Murnbai 400 016.)**...Applicant**

Versus

1. The State of Maharashtra)



Through Principal Secretary,)

Agriculture, Animal Husbandry)

Dairy Development & Fisheries)

Department, Mantralaya,)

Mumbai 400 032.)

2. Shri Sunil Maruti Khairnar,)

Government service as Sub)

Divisional Agriculture Officer,)

Mahad, Dist-Raigad.)...**Respondents**

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

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 21.01.2016

ORDER

1. Heard Shri Shri A.V Bandiwadekar, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents

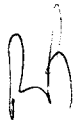
2. This Original Application has been filed by the Applicant challenging the order dated 30.5.2015 issued by the Respondent no. 1 transferring the Respondent no. 2 to the post of Agricultural Development Officer (A.D.O), Zilla Parishad, Pune by cancelling the earlier order of transfer of the Applicant to that post by order dated 31.5.2014.

3. Learned Presenting Officer (P.O) on behalf of Respondent no. 1 raised preliminary objection that there is no cause of action to file the present Original Application. The Applicant was posted as A.D.O, Zilla Parishad, Pune by order dated 31.5.2014 after the promotion of the present incumbent Shri Dhumal. By order dated 31.5.2015, the Respondent no. 2 has been posted as A.D.O, Zilla Parishad, Pune after the same Shri Dhumal is promoted. However, Shri Dhumal has not been promoted as yet and there is no occasion has arisen to fill the post of A.D.O, Zilla Parishad, Pune. Learned Presenting Officer argued that no cause of action has arisen, and therefore, this Original Application is not maintainable.

4. Learned Counsel for the Applicant argued that the Applicant was posted as A.D.O, Zilla Parishad, Pune by order dated 31.5.2014. However, by impugned order dated 31.5.2015 the Respondent no. 2 has been posted in that post, ignoring the recommendations of the Civil

Services Board. Learned Counsel for the Applicant argued that there is material on record to show that the Respondent no. 2 had brought political pressure for his posting as A.D.O, Zilla Parishad, Pune, which is in violation of provisions of Government Circular dated 11.2.2015. Considering the judgment of Hon'ble Supreme Court in Writ Petition (Civil) no 82 of 2011 regarding establishment of Civil Services Board, recommendations of the Civil Services Board cannot be ignored without assigning any reasons. As the Respondent no. 2 has been posted ignoring the recommendations of the Civil Services Board, order dated 31.5.2015 qua the Respondent no. 2 has to be held as invalid.

5. I find that both the orders dated 31.5.2014 and 31.5.2015 have been issued to fill up the post of A.D.O, Zilla Parishad, Pune and they are contingent upon the promotion of the present incumbent, Shri Dhumal. We are now in the month of January, 2016. The general transfer orders will be due be in the month of April, 2016. As there is no indication, when Shri Dhumal is likely to be promoted soon, or before April, 2006, no useful purpose will be served by deciding this Original Application. The outcome may be hypothetical. It will be better, if the Respondent no. 1 decides the issue of filling the post of A.D.O, Zilla Parishad, Pune only after it becomes vacant.



6. It is clarified that issues raised in this Original Application has not been decided one way or the other. It is being disposed of as no useful purpose will be served by deciding it as the post in question is not yet vacant and is therefore not available to be filled. The Original Application is disposed of accordingly with no order as to costs.

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai

Date : 21.01.2016

Dictation taken by : A.K. Nair.