

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.57 OF 2014**

**DISTRICT : PUNE**

Shri Narendra Ramchandra Barapatre, )  
Agriculture Officer, Computer Project, )  
Office of the Commissioner of Agriculture, )  
Yerwada, Pune 411006 )..Applicant

Versus

1. The State of Maharashtra, )  
Through the Secretary, )  
Agriculture Department, Mantralaya, )  
Mumbai 400032 )
2. The Commissioner of Agriculture, )  
M.S., Central Building, Pune 411001 )..Respondents

Shri K.R. Jagdale – Advocate for the Applicant

Smt. K.S. Gaikwad – Presenting Officer for the Respondents

CORAM : Rajiv Agarwal, Vice-Chairman  
R.B. Malik, Member (J)

DATE : 4<sup>th</sup> May, 2016

PER : R.B. Malik, Member (J)



**J U D G M E N T**

1. This Original Application (OA) seeks to challenge the allotment of Amravati Division to the Applicant post promotion instead of Pune for which he had given the preference in accordance with The Divisional Cadre Structure and Divisional Cadre Allotment for appointment by promotion to the posts of Group 'A' and Group 'B' (Gazetted and Non-Gazetted), of the Government of Maharashtra Rules, 2010 (2010 Rules). In some kind of a rolled up plea the seniority aspect is also raked up.

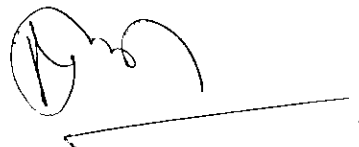
2. Shri K.R. Jagdale, Learned Advocate for the Applicant took over from the earlier advocate for the applicant at the stage of arguments. We have heard him and Smt. K.S. Gaikwad, Learned Presenting Officer (PO) for the respondents and perused the record and proceedings.

3. We must, with some restraint and hesitation begin by mentioning that we had to struggle to decipher the precise nature of the case of the applicant as emerging from the affidavit<sup>5</sup> in support and rejoinder. How we wish the legal expert at that point of time had duly corrected the pleadings. We, however, leave it at that.



4. In so far as the facts relevant hereto are concerned bearing in mind the above stated handicap that we suffered from if we have been able to correctly comprehend the case of the applicant, it is that he came to be appointed earlier some time before 1995 in the same department. But ultimately to the extent hereto relevant, he challenges the order of promotion as Agriculture Officer vide the letter dated 31.7.2013. He had given choice of his posting post promotion which was not given to him as already mentioned above. He has raised some dispute about his seniority amongst 755 Agriculture Officers. The list was finalized on 15.4.2009 wherein he was shown at Sr. No.1660. Again if we have correctly understood, according to him this mess in the matter of placement in the seniority has resulted in his juniors being given the posting of their choice under the 2010 Rules while he was given an unwanted Division of Amravati. It is in this context that he apparently raised the dispute with regard to his seniority also and also with regard to the allotment of the Division. But the pleadings are not only untidy but also woefully deficit in the matter of essential particulars. In that context when we turn to the affidavit in reply we find that in Para 6 thereof it is pleaded in effect that the seniority was properly fixed. The changes were required to be made in accordance with the administrative orders therein referred to. The applicant was the beneficiary at the earlier stage of his career of service protection inasmuch as he had apparently gained entry through ST reserved category. That


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might have been changed and was, therefore, accommodated in Special Backward Class category as per the GR dated 15.6.1995. We have mentioned it only as a narration and nothing more.

5. Now in the first place we are very clearly of the opinion that the applicant has apparently lapsed into what in the realm of civil law is known as mis-joinder of cause of action. And here it does not appear to be curable. The issue of seniority has got a nexus with the allotment of Revenue Division but then it appears to us that if one went by the existing seniority then there was no warrant to hold that the applicant was entitled to the division of his choice on the face of it. Therefore, unless there was material to enter concrete finding about the seniority aspect of the matter we do not think it could be possible for us to render a definitive finding in the matter of allotment of Revenue Division. The pleadings are, as already mentioned completely deficit, in so far as the seniority aspect is concerned.

6. We are told that there could be some vacancies still in the Pune Revenue Division. However, going by the provisions of 2010 Rules which despite their supersession by 2015 Rules are applicable hereto it is not at all clear as to in what way Amravati Division was given to the applicant. The provisions of Rule 4(1)(c) ought to have been followed. The

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respondents have not furnished any material to show if they did that, because in that event there ought to be material to show as to why Nagpur Division was not given to the Applicant.

7. In view of the foregoing the outcome that emerges is that it would be most appropriate to give directions to the respondents to reexamine the case of the applicant and take into consideration as to which Revenue Division he should be appointed in. The above discussion must be borne in mind.

8. This OA is disposed off with a direction to the respondents to reconsider the case of the applicant with regard to the allotment of Revenue Division in the context of 2010 Rules bearing in mind the above discussion. The compliance be done within eight weeks from today. No order as to costs.

Sd/-  
**(R.B. Malik)**  
**Member (J)**  
**4.5.2016**

Sd/-  
**(Rajiv Agarwal)**  
**Vice-Chairman**  
**4.5.2016**

Date : 4<sup>th</sup> May, 2016

Dictation taken by: S.G. Jawalkar.