

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.939 OF 2023

**DISTRICT: PUNE
SUBJECT : TRANSFER**

Shri Govind D. Karad)
Aged 56 yrs, Working as Deputy Inspector)
General and Deputy Controller of Stamps (HQ))
Pune and residing at 31, Swastika, Vaibhav)
Society, Bibwewadi, Pune 411 037.).....**Applicant**

Versus

- 1) The Government of Maharashtra,)
through Additional Chief Secretary,)
Revenue and Forest Department,)
Mantralaya, Mumbai-400 032.)
- 2) Shri Udayraj K. Chavan,)
Joint District Registrar, Class I Higher)
Grade, District Palghar, Maharashtra)
State, Revenue and Forest Department.)... **Respondents**

Shri M. D. Lonkar, learned Advocate for the Applicant.

Shri A. J. Chougule, learned Presenting Officer for the Respondent No.1.

Shri A.V. Bandiwadkar, learned Advocate for the Respondent No.2.

CORAM : DEBASHISH CHAKRABARTY, MEMBER (A)

DATE : 18.07.2024

JUDGMENT

1. The Applicant has invoked provisions of 'Section 19' of 'The Administrative Tribunal Act 1985' to challenge 'Mid Tenure' and 'Mid Term' transfer from post of 'Deputy Inspector General and Deputy Controller of Stamps (HQ), Pune' to post of 'Deputy Inspector General and Deputy Controller of Stamps, Amravati' by Government Order dated

27.07.2023 of Revenue and Forest Department and transfer of the Respondent No.2 on promotion to post of 'Deputy Inspector General and Deputy Controller of Stamps (HQ), Pune' by another Government Order dated 27.07.2023 of Revenue and Forest Department.

2. The learned Advocate for Applicant stated that by Government Order dated 21.08.2019 of Revenue and Forest Department, the Applicant was promoted to cadre of 'Deputy Inspector General and Deputy Controller of Stamps' in establishment of 'Inspector General of Registration and Controller of Stamps, Pune'. The Applicant had at that time filed OA No.914/2019 to challenge Government Order dated 11.07.2019 of Revenue and Forest Department regarding 'Allotment of Division'. The Applicant consequent to being promoted to cadre of 'Deputy Inspector General and Deputy Controller of Stamps' had been allotted to then 'Aurangabad Division'. However, subsequent to Judgment dated 01.10.2020 in OA No.914/2019 the Applicant was reallocated to 'Pune Division' by Government Order dated 26.03.2021 of Revenue and Forest Department. Thereupon, Applicant was transferred to post of 'Deputy Inspector General and Deputy Controller of Stamps (HQ), Pune' on 19.4.2021.

3. The learned Advocate for Applicant emphasized that the Applicant was surprised by Government Order dated 27.07.2023 of Revenue and Forest Department as he was transferred 'Mid Term' and 'Mid Tenure' to post of 'Deputy Inspector General and Deputy Controller of Stamps, Amravati' and by another Government Order dated 27.07.2023 of Revenue and Forest Department, the Respondent No.2 was transferred on promotion to post of 'Deputy Inspector General and 'Controller of Stamps (HQ), Pune'.

4. The learned Advocate for Applicant also mentioned that Shri S. M. Jadhav had filed Original Application No.892/2022 seeking exception to 'Final Seniority List' published on 02.03.2022 by Revenue and Forest

Department and challenged Government Order dated 30.08.2022 of Revenue and Forest Department granting promotion to Respondent No.2 to cadre of 'Deputy Inspector General and Deputy Controller of Stamps'. However, unfortunately Shri S. M. Jadhav, the Applicant in O.A.892/2022 died on 22.06.2023. Thus challenge to 'Final Seniority List' published on 02.03.2022 by 'Revenue and Forest Department' and subsequent promotion of Respondent No.2 to cadre of 'Deputy Inspector General and Deputy Controller of Stamps' has remained undecided as OA No.892/2022 came to be disposed off by Order dated 28.06.2023.

5. The learned Advocate for Applicant further stated that the Applicant was suffering from serious 'Renal Disease' and while serving on post of 'Deputy Inspector General and 'Controller of Stamps (HQ), Pune' had been advised by his 'Consultant Doctors' at Kolkata to undergo 'Kidney Transplant'. So, the Applicant upon learning about his 'Mid Term' and 'Mid Tenure' transfer to post of Deputy Inspector General and Deputy Controller of Stamps, Amravati' had decided to forthwith travel to Kolkata to meet his 'Consultant Doctors'.

6. The learned Advocate for Applicant contended that sufficient evidence was not available with 'Competent Transferring Authority' and next 'Superior Transferring Authority' to approve 'Mid Term' and 'Mid Tenure' transfer of Applicant from post of 'Deputy Inspector General and 'Controller of Stamps (HQ), Pune' by recording 'Special Reasons' or 'Exceptional Circumstances', as is necessary under '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'.

7. The learned Advocate for Applicant explained that 'Enquiry Report' about various 'Public Complaints' filed against Applicant which has been submitted by 'Divisional Commissioner' Pune on 04.07.2023 and even finds mention in Government Order dated 27.07.2023 of Revenue and

Forest Department could not have been the reasons for transfer of Applicant because these 'Public Complaints' were frivolous in nature and repeatedly made only to tarnish the image of Applicant. Further, even though various 'Public Complaints' had been enquired into by successive 'Inspector General of Registration and Controllers of Stamps, Pune' who had not found any substance in these 'Public Complaints' filed against the Applicant; yet only last 'Enquiry Report' obtained from 'Divisional Commissioner Pune' on 04.07.2023 was selectively considered to effect 'Mid Term' and 'Mid Tenure' transfer of Applicant before completion of 'Normal Tenure' of 3 Years on post of 'Deputy Inspector General and Controller of Stamps (HQ), Pune'.

8. The learned Advocate for Applicant emphasized that Applicant has good reasons to believe that Government Order dated 27.07.2023 of Revenue and Forest Department was issued only due to 'Political Influence' brought in by Respondent No.2 which is contrary to the law as laid down by Hon'ble Bombay High Court in *B. V. Tidke V/s State of Maharashtra*.

9. The learned Advocate for Respondent No.2 on other hand stated that challenge to Government Order dated 27.07.2023 of Revenue and Forest Department was heard at length on 28.07.2023 but as no '*prima-facie*' case was established; 'Interim Relief' was not granted to Applicant.

10. The learned Advocate for Respondent No.2 further stated that 'Affidavit in Reply' filed on 24.08.2023 by Revenue and Forest Department was consistent with 'File Notings' which in turn mentions 'Special Reasons' or 'Expectational Circumstances' for transfer Applicant from post of 'Deputy Inspector General and Controller of Stamps (HQ), Pune' and decision was based on recommendations made by 'C.S.B.' to post him as 'Deputy Inspector General and Controller of Stamps' Amravati. The decision for concurrent transfers of Applicant and Respondent No.2 had thus been taken by 'Competent Transferring

Authority' and next 'Superior Transferring Authority' in accordance with 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'.

11. The learned Advocate for Respondent No.2 summed up by mentioning that 'Affidavit in Reply' dated 24.08.2023 of Revenue and Forest Department was comprehensive and thus has been adopted by Respondent No.2.

12. The learned PO relied on 'Short Affidavit' dated 29.11.2023 filed on behalf of Revenue and Forest Department to state that by Government Circular dated 17.06.2022 of Revenue and Forest Department; new policy had been framed to conduct enquiry against Government Servants through 'Third Party Option' by specifically designating 'Divisional Commissioner Pune' to deal with complaints received in respect of Government Servants who are serving in offices of (i) 'Inspector General of Registration and Controller of Stamps, Pune' which includes Sub Registrars, Joint District Registrars, Deputy Inspector Generals of Registration etc.' and (ii) 'Settlement Commissioner and Director of Land Records Pune' which includes City Survey Officers, Superintendents Land Records and Deputy Directors Land Records etc. Hence, enquiry into various 'Public Complaints' filed against Applicant was entrusted afresh through 'Third Party Option' to 'Divisional Commissioner Pune' by letters dated 27.04.2023, 24.05.2023 and 31.05.2024 of Revenue & Forest Department.

13. The learned PO based on 'Short Affidavit' dated 29.11.2023 filed on behalf of Revenue and Forest Department further clarified that final decision about 'Enquiry Report' dated 09.06.2023 submitted by present 'Inspector General of Registration and Controller of Stamps, Pune' was therefore kept in abeyance; as 'Divisional Commissioner, Pune' had already been directed by letter dated 27.04.2023 to conduct enquiry

through 'Third Party Option' into various 'Public Complaints' filed against Applicant.

14. The learned PO based on 'Short Affidavit' dated 29.11.2023 filed on behalf of Revenue and Forest Department emphasized that 'Enquiry Report' was received from 'Divisional Commissioner, Pune' on 04.07.2023 with specific recommendation to transfer Applicant from post of 'Deputy Inspector General and Controller of Stamps (HQ), Pune'. So, accordingly this proposal was put up in meeting of 'C.S.B.' held on 14.07.2023. The recommendation of 'CSB' to transfer the Applicant from post of 'Deputy Inspector General and Deputy Controller of Stamps (HQ) Pune' was thereafter approved by 'Competent Transferring Authority' and next 'Superior Transferring Authority'. Hence, the Applicant came to be transferred from post of 'Deputy Inspector General and Controller of Stamps (HQ), Pune' in exercise of 'Statutory Powers' under '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'.

15. The learned Advocate for Applicant as also learned Advocate for Respondent No.2 and learned PO were heard at length about course of actions taken by Revenue and Forest Department to enquiry into large number of 'Public Complaints' which had been received against Applicant over period of time and nature of decisions taken in respect of 'Enquiry Reports' submitted by successive 'Inspector Generals of Registration' and 'Controller of Stamps, Pune' on 04.11.2022 and 09.06.2023 and 'Enquiry Report' received from 'Divisional Commissioner, Pune' on 04.07.2023.

16. The 'Inspector General of Registration Pune and Controller of Stamps, Pune' being immediate 'Supervisory Officer' of Applicant had been initially entrusted to conduct enquiry into various 'Public Complaints' received against the Applicant: However it would be pertinent to observe here that many of these 'Public Complaints' were

made soon after Applicant was transferred to post of 'Deputy Inspector General and Deputy Controller of Stamps (HQ) Pune' on 19.04.2021. The 'Revenue and Forest Department' as per existing practice had forwarded these 'Public Complaints' to 'Inspector General of Registration and Controller of Stamps, Pune' on 30.09.2021, 01.12.2021 and 13.04.2022. However, 'Enquiry Report' of then 'Inspector General of Registration and Controller of Stamps, Pune' dated 04.11.2022 about initial set of 'Public Complaints' filed against the Applicant; as is affirmed in 'Short Affidavit' dated 29.11.2023 was never received by Revenue and Forest Department. The 'Enquiry Report' dated 04.11.2022 admittedly did not have any adverse findings against the Applicant. Nonetheless another 'Enquiry Report' about subsequent set of 'Public Complaints' received against the Applicant was then sought from present 'Inspector General of Registration and Controller of Stamps, Pune' and it was submitted on 09.06.2023 to Revenue and Forest Department. The 'Enquiry Report' dated 09.06.2023 submitted by present 'Inspector General of Registration and Controller of Stamps, Pune' also did not find any substance in allegations made in subsequent set of 'Public Complaints' filed against Applicant.

17. The Revenue and Forest Department for reasons which remain in the realm of unknown did not take any concerted efforts to ascertain as to why 'Enquiry Report' regarding various 'Public Complaints' filed against Applicant had not been received within reasonable time from earlier 'Inspector General of Registration and Controller of Stamps, Pune' when these had been forwarded to him on 30.09.2021, 01.12.2021 and 13.04.2022. Undoubtedly, Revenue and Forest Department scrambled upon realization that there had been undue delay in completion of enquiry as large number of 'Public Complaints' continued to be received against Applicant. The Revenue & Forest Department thus belatedly decided to obtain fresh 'Enquiry Report' from present 'Inspector General of Registration and Controller of Stamps, Pune' which was submitted on 09.06.2023. However, it is rather evident that without arriving at

considered decision about recommendations in 'Enquiry Reports' submitted on 04.11.2022 and 09.06.2023 by 'Inspector Generals of Registration and Controller of Stamps, Pune'; the Revenue & Forest Department chose to rely only upon 'Enquiry Report' submitted by 'Divisional Commissioner, Pune' purportedly having been received through 'Third Party Option' under new policy framed by Revenue and Forest Department Circular dated 17.06.2022.

18. The 'Divisional Commissioner Pune' was informed by Revenue & Forest Department on 27.04.2023 and 24.05.2023 and 31.05.2023 to submit 'Enquiry Report' about another set of 'Public Complaints' which had been received against the Applicant. The 'Divisional Commissioner, Pune' had submitted 'Enquiry Report' on 04.07.2023 when earlier 'Enquiry Reports' of successive 'Inspector Generals of Registration and Controller of Stamps, Pune' submitted on 04.11.2022 and 09.06.2023 were already under due consideration of Revenue and Forest Department. The Revenue and Forest Department in all fairness should therefore have placed all three 'Enquiry Reports' before 'CSB' which held its meeting on 14.07.2023; as these had been submitted independently by 'Senior Officers' of 'State Government' who are all designated as 'Heads of Department' under 'Appendix-II' of 'Rule 9(22)' of 'MCS (General Conditions of Service) Rules, 1981'. No comprehensive reason has been provided by Revenue and Forest Department as to why they chose to provide 'CSB' with only last 'Enquiry Report' received from 'Division Commissioner, Pune' on 04.07.2023. Also important it is to observe here that successive 'Inspectors Generals of Registration and Controller of Stamps, Pune' who were immediate 'Supervisory Officer' of Applicant had not recommended his transfer of from post of 'Deputy Inspector General and Controller of Stamps (HQ), Pune' but instead in their 'Enquiry Reports' came out with reasoned findings to conclude that there were no substance in sets of 'Public Complaints' received against Applicant. Further, it is imperative to observe that Government Circular dated 17.06.2023 of Revenue and Forest Department is evidently about

designating 'Divisional Commissioner, Pune' as 'Grievance Redressal Officer' to deal with 'Public Grievances' made against Government Servants which are of 'Administrative Nature' such as undue delays in 'Office Work' or laxity in delivery of 'Citizen Services' etc. as these adversely impact achievement of 'Ease of Doing Business'. Thus; this new responsibility given to 'Divisional Commissioner Pune' by Government Circular dated 17.06.2023 of Revenue and Forest Department is to act as 'Grievance Redressal Officer' specifically to facilitate achievement of 'Ease Of Doing Business' and is not to be understood as 'Third Party Option' available to conduct fact finding enquiries into myriads of 'Public Complaints' which are often received against Government Servants such as in case of Applicant.

19. The Revenue and Forest Department has failed to disclose justiciable reasons why earlier 'Enquiry Reports dated 04.11.2022 and 09.06.2023 of successive 'Inspector Generals of Registration and Controller of Stamps, Pune' were not promptly acted upon but also compelling reasons to rely only upon last 'Enquiry Report' submitted by Divisional Commissioner, Pune' on 04.07.2023. Hence the overtly selective and latish reliance only on Government Circular dated 17.06.2023 of Revenue and Forest Department to somehow get 'Divisional Commissioner, Pune' to submit an 'Enquiry Report' alongwith recommendation for transfer Applicant from post of 'Deputy Inspector General and Controller of Stamps (HQ), Pune' does not affirm an unbiased approach of Revenue and Forest Department.

20. The Revenue and Forest Department crucially did not factor in the humanitarian dimension relating to Applicant while he serving on post of 'Deputy Inspector General and Deputy Controller of Stamps (HQ) Pune' as he was suffering from advanced stage of 'Renal Disease' and had been advised by his 'Consulting Doctors' in Kolkata to undergo 'Kidney Transplant'. Neither did the Applicant immediately proceed on 'Medical

Leave' as per entitlement under 'Rule 40' of 'MCS (Leave) Rules, 1981' as this would have even staved off 'Mid Term' and 'Mid Tenure' transfer from post of 'Deputy Inspector General and Controller of Stamps (HQ) Pune' effected by Government Order dated 27.03.2024 of Revenue and Forest Department.

21. The Applicant is reported to have subsequently undergone 'Kidney Transplant' at Kolkata and recuperated well enough to be declared fit to resume duty. However Applicant being due for retirement on 31.07.2023 is a fact that cannot be overlooked, as also it is not known whether Applicant has received 'ex-post facto' approval for 'Medical Leave' availed to undergo 'Kidney Transplant' at Kolkata and if he has submitted 'Medical Certificate' of fitness to 'Inspector General of Registration and Controller of Stamps, Pune' as per provisions of 'Rule 47(3)' of 'MCS (Leave) Rules, 1981'. The assessment of all facts and circumstances leading to 'Mid Term' and 'Mid Tenure' transfer of Applicant from post of 'Deputy Inspector General and Controller of Stamps (HQ), Pune' when considered in entirety does not make Government Order dated 27.07.2023 of Revenue and Forest Department fully justiciable; but considering that Applicant is due to retire on 31.07.2024 after long service in establishment of 'Inspector Generals of Registration and Controller of Stamps, Pune'; invocation of 'Principles of Aegutas' merits consideration and directions are thus given to 'Revenue and Forest Department' to at least exonerate Applicant from burden of allegations made by set of 'Public Complaints' for which 'Enquiry Reports' dated 04.11.2022 and 09.06.2023 which reasoned findings have already been submitted by successive 'Inspector Generals of Registration and Controller of Stamps, Pune'. Nonetheless as it was alarmingly disclosed later by 'Short Affidavit' dated 02.01.2024 of Revenue and Forest Department based on communication from 'Inspector General of Registration and Controller of Stamps, Pune' through 'Deputy Inspector General and Deputy Controller of Stamps (HQ) letter dated 01.01.2024 that after issue of Government Circular dated 17.06.2022 of Revenue and

Forest Department another set of 55 'Public Complaints' including many against Applicant had been filed directly with 'Divisional Commissioner Pune' and these have now been transferred to 'Inspector General of Registration and Controller of Stamps, Pune'. The last set of 55 'Public Complaints' it is pertinent to note have also been received during period of about 'One Year' from 05.11.2022 to 25.10.2023 when Applicant was still holding post of 'Deputy Inspector General and Deputy Controller of Stamps (HQ), Pune' till 27.07.2023 and these are yet to be enquired into by 'Inspector General of Registration and Controller of Stamps, Pune'. Hence, even if 'Inspector General of Registration and Controller of Stamps, Pune' upon completion of enquiry was to conclude that the last set of 55 'Public Complaints' did not establish any allegations against the Applicant when he was serving on post of 'Deputy Inspector General and Deputy Controller of Stamps (HQ), Pune' or as per procedure some of 55 'Public Complaints' are required to be classified as 'Anonymous Complaints', still at this intermediate stage it is not be possible to conclude anything about culpability of Applicant with respect to this last set of 55 'Public Complaints'. Hence it would be natural to recollect the old adage that 'There Is No Smoke Without Fire' and await submission 'Enquiry Report' by 'Inspector General of Registration and Controller of Stamps, Pune' in respect of this last set of 55 'Public Complaints' received from 'Divisional Commissioner, Pune'.

22. The case of Applicant still remains hazy; as it now revolves entirely around final outcome of enquiry which is yet to be conducted in respect of last set of 55 'Public Complaints' received by 'Inspector General of Registration and Controller of Stamps, Pune'. The Revenue and Forest Department had earlier forwarded only 9 'Public Complaints' to 'Divisional Commissioner Pune' on 29.04.2023, 24.05.2023 and 31.05.2023 including those received from 'DG-ACB Maharashtra' and 'Hon'ble Upa Lok Ayukta of Maharashtra'. Overall; as the Applicant is now set retire on 31.07.2024, notwithstanding the final outcome of enquiry into last set of 55 'Public Complaints' by 'Inspector General of

Registration and Controller of Stamps, Pune', if the Applicant has submitted 'Medical Certificate' of fitness to resume duties as per provisions of 'Rule 47(3)' of 'MCS (Leave) Rules, 1981'; then 'Inspector General of Registration and Controller of Stamps, Pune' is directed to enable Applicant to forthwith join on post of 'Deputy Inspector General and Controller of Stamps, Amravati' as per Government Order dated 27.07.2023 of Revenue and Forest Department.

ORDER

- (a) The Original Application is Dismissed.
- (b) No Order as to Cost.

Sd/-
(DEBASHISH CHAKRABARTY)
MEMBER (A)

Place : Mumbai
Date : 18.07.2024
Dictation taken by : V.S. Mane
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