

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 298 OF 2017**

(Shri Ghanshyam N. Patil V/s. State of Mah. & Ors.)

**CORAM : Hon'ble Shri J.D. Kulkarni, Vice Chairman**

**DATE : 24-05-2017**

**ORAL ORDER:-**

Heard Shri Pralhad D. Bachate, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. In this original application the applicant has challenged the impugned order dated 16.5.2017 issued by the res. no. 1 – the Government of Maharashtra through its Principal Secretary, School Education & Sports Department, Mantralaya, Mumbai, whereby the applicant has been kept under suspension. At the time of suspension, the applicant was serving as a Education Officer (Secondary) at Nandurbar. It seems that the applicant has been kept under suspension in view of some enquiry to be initiated against him as regards the incident which had taken place between 1.6.2010 to 14.9.2010 when the applicant was working as a Education Officer at Dhule.

3. The charges proposed are on paper book page 23 of the original application from which it seems that the applicant

has committed breach of Reservation Act, 2004 and has approved the appointments of the candidates other than the reserved category on the reserved posts. The learned Advocate for the applicant submits that the applicant is going to retire on superannuation in the month of September, 2017 and though the incident is of the year 2010, the suspension order has been issued in the month of May, 2017 i. e. after a lapse of 7 years and that too when the applicant is at the verge of retirement.

4. These are definitely mitigating circumstances to reconsider, as to whether the suspension of the applicant is really necessary or not. Admittedly, the applicant is not at Dhule, where the enquiry is to be conducted and, therefore, there is no question in interfering in the enquiry. The respondents have also authority to continue the enquiry even after the retirement of the applicant on superannuation and the respondents can definitely pass such orders in view of the provisions of rule 10 and rule 27 of the Maharashtra Civil Services (Pension) Rules, 1982. Considering all above aspects

the competent authority can consider the application of the applicant for revocation of his suspension.

5. The learned Advocate for the applicant submits that the applicant will file representation for revocation of his suspension within a period of one week from today and that he has been instructed to withdraw the present original application, if his representation is considered within a particular timeframe. He, therefore, seeks permission to withdraw the present original application.

6. The learned Presenting Officer has shown her no objection for withdrawal of original application with direction. In view thereof, I pass the following order :-

**ORDER**

(i) The applicant is allowed to withdraw the original application and in view thereof the original application stands disposed of as withdrawn.

(ii) The applicant is at liberty to file representation to res. no. 1 for revocation of his suspension, within a period of one week from today.

(iii) If such a representation is filed by the applicant, the res. no. 1 shall take a decision on the said representation as per the rules and regulations considering the mitigating circumstances as referred hereinabove, within a period of one month from the date of receipt of such a representation and to communicate the said decision to the applicant in writing.

(iv) It is needless to mention that the applicant will be at liberty to file fresh original application, in case he is aggrieved by the decision taken by the res. no. 1 on the representation.

There shall be no order as to costs.

**VICE CHAIRMAN**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 299 OF 2017**

(Shri (Dr.) Satish G. Deshpande V/s. State of Mah. & Ors.)

**CORAM : Hon'ble Shri J.D. Kulkarni, Vice Chairman**

**DATE : 24-05-2017**

**ORAL ORDER:-**

Heard Shri Sujeet D. Joshi, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. The applicant has challenged his relieving order dated 17.5.2017. Vide the said order the applicant has been directed to be relieved forthwith for being joining at his place of transfer.

3. Vide order dated 25.6.2015, the applicant has been transferred from the Government Medical College, Latur to Government Medical College, Ambajogai. The applicant is working on the post of Lecturer. Though the order of transfer has been passed on 25.6.2015, the applicant was not relieved. In fact the earlier also on 2.6.2011 the applicant was transferred from Latur to Ambajogai, but the said transfer order was stayed on the request of the Dean, Government Medical College, Latur and the applicant continued to work at Latur.

4. The Dean, Government Medical College, Latur wrote a letter on 29.10.2015 to the Director of Medical Education and Research, Mumbai and requested that the applicant may not be relieved and his order of transfer be cancelled. In view of the said recommendation, the applicant continued to work at Latur.

5. However, the learned Advocate for the applicant submits that vide the impugned order dated 17.5.2017, the applicant has been asked to join at Ambajogai. It is stated that the said order is passed by the Dean, Government Medical College, Latur.

6. Perusal of the impugned order dated 17.5.2017 shows that there is a reference of telephone direction from the Director of Medical Education & Research, Mumbai. It seems that earlier the order of transfer of the applicant dated 25.6.2015 was stayed as per telephonic message from the Director of Medical Education & Research, Mumbai and now as per the telephonic direction from the Director of Medical Education & Research, Mumbai, the applicant has been relieved.

7. The learned Advocate for the applicant submits that the order of transfer has been passed by the Government and the competent authority has recommended the stay to the order and the matter is pending before the Government and, therefore, the Director has no authority to direct the Dean, Government Medical College, Latur to relieve the applicant. I do not find any force in the above submission of the learned Advocate for the applicant for the reasons that the order was stayed by the Director of Medical Education & Research, Mumbai himself and, therefore, the applicant now cannot say that the Director of Medical Education & Research, Mumbai cannot direct the Dean to relieve the applicant.

8. The learned Advocate for the applicant further submits that the applicant has filed a representation on 18.5.2017 to the Government and direction may be issued to the Government to take a decision on the representation of the applicant within a stipulated period and that with this direction the present original application may be disposed of. The copy of the said representation is annexed with the original application at Annex. A.6.

9. The learned Advocate for the applicant also submits that the applicant has not yet been relieved though the order of relieving is passed as he did not receive its authentic copy. It is further submitted that the charge of the applicant's post has been given to one Dr. S.V. Shirsath as additional charge without following the due procedure.

10. The learned Presenting Officer submits that the applicant has been relieved already vide order dated 17.5.2017 and his charge has been handed over to Dr. S.V. Shirsath.

11. In view of the discussion in foregoing paragraphs the present original application can be disposed of at the admission stage with the consent of both the sides with a direction to the respondents. Hence, I pass the following order :-

**ORDER**

(i) The original application stands disposed of.



(ii) The res. no. 1 is directed to take a decision on the representation filed by the applicant dated 18.5.2017 (Annex. A.6 of the O.A.), within the period of 2 weeks from the date of this order.

There shall be no order as to costs

**VICE CHAIRMAN**