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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 14313 OF 2016

Khushal Wamanrao Haral

...Petitioner

Age 44 years,
Formerly working as Sectional Engineer
in the Office of Secretary, Licensing Board,
3rd floor, Administrative Building,
Chembur, Mumbai-400071.
R/o. B/76/4, Government Colony,
Bandra(E), Mumbai-400 051.

Vs.

1. The State of Maharashtra
Through Principal Secretary,
(Energy), Industries, Energy &
Labour Department, Mantralaya
Mumbai.
2. The Superintending Engineer,
Holding charge of Chief Electrical
Inspector, Inspection Circle,
Chembur, Mumbai.
3. The Electrical Inspector
Secretary, Licensing Board,
Having office at 3rd floor,
Administrative Building,
Chembur, Mumbai-400 071.

...Respondents

Mr. Pradeep J. Thorat, Advocate for the Petitioner
Mr. N.C. Walimbe, A.G.P. for the State

**CORAM : SMT. V.K. TAHILRAMANI, &
M.S. KARNIK, JJ.
DATED :19TH APRIL, 2017**

ORAL JUDGMENT [PER SMT. V.K. TAHILRAMANI, J.]

1. Heard learned Counsel for the Petitioner and the learned A.G.P. for the Respondents.

2. Rule. By consent of the parties, Rule is made returnable forthwith and the matter is heard finally.

3. This Petition has been preferred against the order dated 25th November 2016 passed by the Maharashtra Administrative Tribunal Mumbai Bench, Mumbai in the Original Application No. 647 of 2016 preferred by the Petitioner, which came to be dismissed.

4. In the OA the Petitioner has challenged the order dated 30th April, 2016 issued by the Respondent No.1 by which he was absorbed in P.W.D. (Electrical) Wing. The prayer of the Petitioner in the OA was that he be continued to be retained in the Energy

Department and absorbed as per option given by him and he be granted all the consequential service benefits.

5. The Petitioner was initially appointed as Junior Engineer in the year 1998. He was promoted as Sectional Engineer in 2004. Electrical Inspectorate was earlier working under the Public Work Department. In 2015 it was decided to bifurcate the Inspectorate and the Electrical Inspectorate was brought under the administrative control of Energy Department and P.W.D. (Electrical) Wing continued to be with P.W.D. By G.R. dated 24th April, 2015 it was decided to give opportunity to the employees either to remain in Electrical Inspectorate or to shift to P.W.D. The employees were required to give options till 20th May 2015.

6. The Petitioner was working in Electrical Inspectorate. In view of the G.R. dated 24th April 2015, by letter dated 7th May 2015 the Chief Electrical Inspector asked employees to give their options either to remain in Electrical Inspectorate or to shift to P.W.D. The employees were required to give options till 20th May 2015. By letter dated 19th May 2015 it was clarified that if no option was

given by them, it was to be presumed that the employee wished to remain in Energy Department. The Petitioner gave his option to be absorbed in P.W.D. on 26th February 2016. However, on 8th March, 2016 the Petitioner changed his option and opted to remain in Energy Department. By order dated 30th April 2016 the option of the Petitioner opting to remain in Energy Department was rejected. Being aggrieved thereby he preferred the abovementioned O.A.

7. The learned Counsel for the Petitioner submitted that if the Petitioner remains in P.W.D. he will have no chances of promotion. The Petitioner is from NT category and in P.W.D. Department the quota for NT is full, hence the Petitioner would not get any benefit. He further submitted that this rejection was against the policy of the Government to absorb an employee in a department of his choice.

8. The learned A.G.P. submitted that a Coordination Committee was formed to decide about migration of employees from Energy Department to P.W.D. after 20th May 2015. The Petitioner had decided to migrate to P.W.D. by his option form dated 26th February

2016. In the meeting of Officers of Energy Department and P.W.D. held on 5th March, 2016 it was decided to finalize inter departmental transfers as per options received till the date of meeting i.e. 5th March 2016. On 5th March 2016 the Petitioner's option dated 26th February 2016 was before the Committee. The revised option dated 8th March, 2016 was obviously not before the Committee, hence the revised option was not considered. As the Committee considered all the options received till 5th March 2016 and on that date, only the Petitioner's earlier option dated 26th February, 2016 was before the Committee it was considered and allowed. In the said meeting it was decided to consider only options received up to 5th March, 2016. Thereafter the G.R. dated 30th April 2016 was issued on the basis of the decision taken by the Committee on 5th March 2016.

9. It is an admitted fact that the Petitioner had given his option to migrate to P.W.D. on 26th February 2016. It is also a fact that he had given revised option on 8th March 2016 to remain in Energy Department. According to the Petitioner his latest option dated 8th March, 2016 should have been accepted by the Respondents. As far

as this contention is concerned the interdepartmental meeting of Officers of Energy Department and P.W.D. was held on 5th March 2016 wherein it was decided to finalize the staff transfers on the basis of options given up to 5th March 2016. It was decided therein to consider options received only up to 5th March 2016. The process of interdepartmental adjustment has to come to a finality and cannot continue indefinitely. It is inevitable that when the cut-off date was fixed, which was 5th March 2016 the Petitioner cannot insist that his revised option must be accepted. The Tribunal has taken into account all these contentions and in our opinion rightly dismissed the OA. Hence, we are not inclined to interfere in the order.

10. However, the learned Counsel for the Petitioner submitted that at present the posts of NT candidates are vacant in the Energy Department. Whereas in the P.W.D. department at present there are no posts available for candidate from NT category and hence, the Petitioner cannot get any benefit of being a NT category candidate. It would be open to the Petitioner to make a representation to the Competent Authority that his case may be considered for placing

him in the Electrical Department. If such a representation is preferred, the same be decided as expeditiously as possible. The Writ Petition is disposed of accordingly.

11. Rule is discharged in the above terms.

(M.S. KARNIK, J.)

(SMT. V.K. TAHILRAMANI, J.)