

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

WRIT PETITION NO.1351 OF 2024

Suhas Chandrakant Zanjurne	] .. Petitioner
Vs.	
1. State of Maharashtra,	]
Through State Excise Department	]
2. Commissioner,	]
State Excise Department	]
3. Rakesh Kisan Pawar	] .. Respondents

ALONG WITH

INTERIM APPLICATION NO.1824 OF 2024

Rakesh Kisan Pawar	.. Applicant-Org. Resp. No.3
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Mr. Amit Gharte for the Petitioner.

Mr. B.V. Samant, Addl. G.P., with Ms. Reena Salunkhe, Asst. G.P., for Respondent Nos.1 and 2-State of Maharashtra.

Mr. Satish Chethiyar, Legal Advisor, State Excise Department, is present.

Mr. H.V. Kode for the Applicant-Original Respondent No.3.

**CORAM : A.S. CHANDURKAR &
JITENDRA JAIN, JJ**

DATE : 4TH APRIL, 2024.

ORAL JUDGMENT : (Per A.S. Chandurkar, J.)

1. RULE. Rule made returnable forthwith and heard learned counsel for the parties.

2. The challenge raised in this writ petition is to the order dated 24th January 2024 passed by the Maharashtra Administrative Tribunal in Original Application No.632 of 2023. The petitioner is aggrieved by the directions issued therein to post the petitioner on any other vacant post of Sub-Inspector, State Excise in either Mumbai City District or Mumbai Suburban District. This direction was issued while allowing the Original Application preferred by the respondent no.3.

3. The respondent no.3 herein had filed Original Application No.632 of 2023 challenging the order of transfer dated 4th May 2023 by which he was transferred from 'W' Division of Mumbai Suburban District to Beed. It was his contention that he was not eligible for being transferred as he had not completed his normal tenure of three years at 'W' Division of Mumbai Suburban District. This was for the reason that he had been re-posted there by an order dated 11th August 2021 that was passed in view of the order dated 30th July 2021 in Original Application No.435 of 2020. The learned Member of the Tribunal found that the question of treating the absence of respondent no.3 from 10th August 2020 to 11th August 2021 was under consideration by the Commissioner of State Excise, Mumbai. Since it was not clear as to whether the aforesaid period of absence had been regularized or not, the Original Application preferred by respondent no.3 was partly allowed and the Commissioner of State Excise was directed to consider this aspect within a period of four weeks. Consequentially, the present petitioner, who was respondent no.3 in the Original Application and who had been posted in place of the respondent no.3 herein at 'W' Division of Mumbai Suburban District, was directed to be posted at any other vacant post of Sub-Inspector, State Excise either in Mumbai City District or Mumbai Suburban District.

4. In the meanwhile, the Joint Commissioner (Administration), State Excise in compliance with the orders passed by the Tribunal in Original Application No.632 of 2023 treated the absence of respondent no.3 from 11th August 2020 to 10th August 2021 as period spent under extra-ordinary leave without pay. In view of this decision, it has become clear that the order of transfer issued to respondent no.3 does not call for any interference.

. On 22nd March 2024, the respondent no.3 was permitted to make a representation to the respondent no.2 seeking his posting at Mumbai in view of the grounds sought to be raised by him.

5. In view of the fact that the period referred to above has been treated as period spent under extra-ordinary leave without pay, we find that the petitioner was not liable to be shifted as a consequence of the directions issued in the Original Application. Hence, to that extent, the directions issued in Original Application No.632 of 2023 with regard to posting the petitioner at some other place is set aside. It is directed that the petitioner shall continue to discharge duties at “W” Division of Mumbai Suburban District as earlier.

6. It is open for respondent nos.1 and 2 to consider the representation made by respondent no.3 expeditiously and in accordance with law.

7. Rule is made absolute in the above terms. Pending Interim Application is also disposed.

[JITENDRA JAIN, J.]

[A.S. CHANDURKAR, J.]