

Priya Soparkar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11520 OF 2025**

Shrikant Ramdas Karkale,
Age :42 years, Occ: Service,
Joint Commissioner (Food)-cum-
Adjudicating Officer, Office of the
Joint Commissioner (Konkan Division)
Food and Drugs Administration
(Maharashtra State), Vardan MIDC
Building, Lower Ground Floor,
Road No.16, Wagale Estate,
Thane (West)-400604.

...Petitioner

~ versus ~

1. The State of Maharashtra,
Through the Principal Secretary,
Medical Education and Drugs
Department, G.T. Hospital Complex,
9th Floor, Lokmanya Tilak Marg,
New Mantralaya, Mumbai – 400001.
2. Mahesh Namdeo Chaudhary,
Age: 57 years, Occ: Govt. Servant,
Residing at Flat No.3/303,
Wimbledon Park,
Opp. Singhani School,
Pokhran Road No.1,
Thane (West), Thane 400606.

...Respondents

APPEARANCES

For the Petitioner	Mr. Vivek Vijay Salunke
For Respondent No. 1- State	Mr. N. C. Walimbe, Addl. GP with Ms. Rupali M. Shinde, AGP
For Respondent No. 2.	Ms. Pushpa Ganediwala with Ms. Anshu Agrawal, Mr. Ankit Rathod, Mr. Pradyumna Agrawal i/by M/s Pushpa Ganediwada & Co.

**CORAM : SUMAN SHYAM &
MANJUSHA
DESHPANDE, JJ.**

**RESERVED ON : 17TH SEPTEMBER, 2025.
PRONOUNCED ON : 25TH SEPTEMBER, 2025.**

JUDGMENT (Per Suman Shyam, J):-

1. In this Writ Petition the judgment and order dated 18th July, 2025 passed by the learned Maharashtra Administrative Tribunal (MAT) Mumbai in Original Application (OA) No.1370 of 2024 instituted by the Respondent No.2 herein as Original Applicant, has been put under challenge by contending that the impugned order suffers from serious legal infirmities warranting interference by this Court.

2. The facts of the case, as apparent from the record, in a nutshell, are that pursuant to the recommendation dated 21st August, 2024 made by the Civil Service Board (CSB), the Writ

Petitioner herein along with the Respondent No.2 and other eligible departmental candidates were promoted to the post of “Joint Commissioner (Food)-cum-Adjudication Officer, Group-A”. The CSB had also recommended that Pursuant to their promotion, the Respondent No.2 be posted at Thane and the Writ Petitioner at Amaravati. It appears that such recommendations were made by CSB by taking note of the options exercised by the respective candidates. However, the recommendation of CSB was overruled by the Departmental Minister i.e. the Minister-in-charge of Medical Education and Drugs Department and by issuing the impugned order dated 9th October, 2024 by means of which, the Writ Petitioner was posted at Thane and the Respondent No.2/Original Applicant at Nashik. Aggrieved thereby, the Respondent No 2 as applicant had preferred O.A. No 1370 of 2024 which was allowed by the learned Tribunal by the impugned judgment and order dated 18th July, 2025, thus interfering with the order dated 9th October, 2024 in so far as the same seeks to override the recommendations made by the CSB in its meeting held on 19th August, 2024 assigning places of posting to the promotee Officer. The learned MAT was of the view that no reason whatsoever, has been furnished by the Hon’ble Minister-in-charge of the Department for overruling the recommendations of the CSB. As such, the impugned order dated 9th October, 2024 was unsustainable in law.

3. By placing reliance on the law laid down by the Supreme Court in the case of **T.S.R. Subramanian and ors. Vs. Union of India**

and ors.¹ as well as the Government Resolution (GR) issued by the State of Maharashtra dated 31st January, 2024 embodying the administrative instructions issued in conformity with the decision of the Supreme Court in the case of **T.S.R. Subramanian and ors. Vs. Union of India and ors.** (supra), the learned MAT has held that although the Departmental Minister has wide powers in these matters including the power to disagree with the recommendation of the CSB yet, in case of disagreement with recommendations of the CSB, proper reasons must be recorded by the Minister. In the absence of reasons recorded, the decision of the Departmental Minister, to override the recommendation of the CSB, was not permissible in law. It was, therefore, held that the impugned order of posting dated 9th October, 2024 was vitiated by complete arbitrariness. The OA filed by the Respondent No.2 was thus, allowed by the learned MAT with the following order and direction:-

“ **ORDER**

(A) The O.A. No.1370/2024 is Allowed.

(B) The ‘Medical Education and Drugs Department’ directed to concurrently transfer Applicant to post of ‘Joint Commissioner, Food-cum-Adjudicating Officer’ at ‘Thane’ in place of Respondent No.2 and in turn Respondent No.2 in place of Applicant to post of ‘Joint Commissioner, Food-cum-Adjudicating Officer’ at ‘Nashik’ within period of next ‘Two Weeks’.

(C) No order as to costs.”

1 (2013)15 SCC 732

4. Assailing the judgment and order dated 18th July, 2025 passed by the Learned Tribunal, the learned counsel for the Writ Petitioner submits that this is not a case of routine transfer but posting on promotions. Therefore, neither the law laid down in the case of **T.S.R. Subramanian and Ors. Vs. Union of India and Ors.** (supra) nor the mandate of GR dated 31st January, 2024 would be applicable in this case. By referring to GR dated 29th April, 2025, Mr. Vivek Vijay Salunke, learned counsel for the Petitioner has further argued that in matters of transfer, the Departmental Minister has wide range of power including the power to override the recommendations made by the CSB. In the present case, submits Mr. Salunke, since the power exercised by the Departmental Minister is in accordance with GR dated 29th April, 2025 and the same has also received the approval of the Hon'ble Chief Minister, who is the appointing authority in this case, no interference with the impugned order dated 9th October, 2024 was called for by the learned MAT.

5. Responding to the above submission, Ms. Pushpa Ganediwala, learned counsel for the Original Applicant/ Respondent No.2 has argued that her client is senior to the Writ Petitioner and he is also on the verge of his retirement. Moreover, Thane is his home district. As such, prior to his retirement, he was entitled to posting at his home district/ town. According to Ms. Ganediwala, taking into consideration all such relevant factors, the CSB had recommended the posting of the Respondent No.2/Original Applicant at Thane. Therefore, unless cogent reasons are

shown, it would not be permissible for the Departmental Minister to override the recommendations of the CSB. In support of her above arguments, apart from relying on the decision of the **T.S.R. Subramanian and ors. Vs. Union of India and ors.** (supra) Ms. Ganediwala has also placed heavy reliance on a decision of this Court rendered by a Co-ordinate Bench in **Writ Petition No.15400 of 2024 (Krishna Babaji Bhavar Vs. The Union of India and ors.)** to submit that even if the competent authority wants to reject the recommendations of the CSB, it will be obliged to record reasons for doing so which has not been done in the present case. Therefore, the learned MAT has rightly interfered with the impugned transfer order.

6. The learned AGP has supported the original transfer order dated 9th October, 2024 and submits that the Chief Minister of the State being the next Superior Transferring Authority under the 'Maharashtra Government Service Regulation of Transfer and Prevention of Delay in Discharge of Official Duties Act, 2005 and also the appointing authority, the order of posting having received his approval, there was no scope for the learned MAT to interfere with the order merely on the ground that no reasons were furnished by the Departmental Minister.

7. We have considered the submission made at the Bar and have also gone through the materials available on record.

8. There is no controversy about the fact that the decision of the Supreme Court in the case of **T.S.R. Subramanian and ors. Vs. Union of India and ors.** (supra) lays down in unequivocal terms that in all service matters including matters of transfer posting and disciplinary action the recommendations of the CSB can be overruled by the political executives but by recording reasons for doing so. It has been held that such recourse is necessary for fairness, transparency, actionable and good governance. The observations made in paragraphs 33 and 34 are relevant for this case and are, therefore, being re-produced here-in-below :-

“ 33. CSB, consisting of high-ranking in-service officers, who are experts in their respective fields, with the Cabinet Secretary at the Centre and Chief Secretary at the State level, could be a better alternative (till Parliament enacts a law), to guide and advise the State Government on all service matters, especially on transfers, postings and disciplinary action, etc., though their views also could be overruled, by the political executive, but by recording reasons, which would ensure good governance, transparency and accountability in governmental functions. Parliament can also under Article 309 of the Constitution enact a Civil Service Act, setting up a CSB, which can guide and advise the political executive transfer and postings, disciplinary action, etc. CSB consisting of experts in various fields like administration, management, science, technology, could bring in more professionalism, expertise and efficiency in governmental functioning.

34. We, therefore, direct the Centre, State Governments and the Union Territories to constitute such Boards with high-ranking serving officers, who are specialists in their respective fields, within a period of three months, if not already constituted, till Parliament brings in a proper legislation in setting up CSB.”

9. Taking note of the directions issued in the decision of the **T.S.R. Subramanian and ors. Vs. Union of India and ors.** (supra), the State of Maharashtra had issued GR dated 21st April, 2015 a CSB was established to recommend posting and transfer of Officers in Group-A and B cadres of Food & Drugs Administration, State of Maharashtra. The matter of assigning posting to the promotee Officers was also placed before the said CSB which had made its recommendations of the places of posting of the Officers pursuant to their promotion. However, as noted above, such recommendations of the CSB was over-ruled by the Departmental Minister, without, however, recording any reason.

10. There is no dispute about the fact that the Minister-In-Charge would have the authority and jurisdiction to over-rule the recommendations of the CSB. The question herein is not as to whether, the Minister-in-charge had the power to override the decision of the CSB but whether, the same could be done without recording any reason for doing so. From a careful scrutiny of the material available on record, we do not find any reason recorded by the Hon'ble Minister-in-charge for overruling the recommendations of the CSB. If that be so, such an order, in our view, would be patently violative by the law laid down by the Supreme Court in the case of **T.S.R. Subramanian and ors. Vs. Union of India and ors.** (supra) as well as the GR issued by the Government dated 21st April, 2015.

11. In the case of **Krishna Babaji Bhavar Vs. The Union of India and ors.** (supra), this Court, while dealing with an issue of similar nature, had made the following observations in paragraph No.38 :-

“38. However, irrespective of the application of the State Act or the Central Provisions, none of the parties disputed those transfers had to be made on the recommendations of the Civil Services Board. The competent authority may disagree with the recommendations, but the competent authority would be obliged to record reasons for the disagreement. This means that there is no question of the competent authority directly transferring any Indian Forest Service Officers of the Maharashtra Cadre without there being a recommendation of the Civil Service Board. The recommendation may not bind the competent authority. Still, in the absence of the Board first considering the transfer issue, there was no question of the competent authority directly transferring an Indian Forest Service Officer of the Maharashtra Cadre.”

12. The learned counsel for the Writ Petitioner has tried to impress upon us by arguing that the GR dated 21st April, 2015 would not be applicable in the case of transfer / postings made on promotion. However, on a careful reading of the relevant GR, we find that the same is applicable in the case of Transfer as well as posting. Therefore, we are unable to agree with the submissions of the learned counsel for the Writ Petitioner that the GR is not applicable in case of postings.

13. By referring to a number of decisions of the Hon’ble Supreme Court, the learned MAT has held that recording of reasons is necessary so as to eliminate arbitrariness in exercise of administrative powers by the Public Authority and that, in exercise of the power of judicial review, the Writ Court will not go into the merit of the decision but would only examine the decision making process. Since, the decision/ recommendation of the CSB was over-

ruled without recording any reason, hence, the impugned order dated 09.10.2024 was interfered with. Having regards to the facts and circumstances of the case we do not find any justifiable ground to take a different view in the matter. Rather, in view of the ratio laid down in the case of **T.S.R. Subramanian and ors. Vs. Union of India and ors.** (supra) as well as **Krishna Babaji Bhavar Vs. The Union of India and ors.** (supra), we are of the view that the order of the Departmental Minister overriding the recommendations CSB would be unsustainable in law unless the same is based on proper reasons.

14. For the reasons stated hereinabove, we do not find any good ground to interfere with the order of the learned MAT. The Writ Petition is, therefore, held to be devoid of any merit and the same is accordingly dismissed. However, since the impugned order dated 9th October, 2024 has been interfered with on the technical ground of procedural violation, we make it clear that notwithstanding this order, it will be open for the Hon'ble Minister-in-charge of Medical Education and Drugs Department to pass fresh order in the matter, if any, by furnishing proper reason, within a period of six weeks from the date of receipt of the certified copy of the order, if so advised.

15. With the above observations, the Writ Petition stands disposed of.

(MANJUSHA DESHPANDE, J.)

(SUMAN SHYAM, J.)