

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 1051 OF 2023**

**DISTRICT:- BEED**

**Dr. Prakash Madhukar shivnikar**

Age-50 years, Occu. Service as  
Medical Superintendent, Sub-District  
Hospital, Georai, Dist. Beed.  
R/o C/o Shri Shyam Yeole,  
Saraswati Colony-II,  
Georao, Dist. Beed-431 127.

.. **APPLICANT**

**V E R S U S**

1) The State of Maharashtra,  
Through the Secretary,  
Public Health Department,  
G.T. Hospital Compound Complex,  
10<sup>th</sup> Floor, Mantralaya,  
Mumbai 400 032.

2) The District Civil Surgeon,  
Beed.

.. **RESPONDENTS**

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APPEARANCE : Shri Ajay Deshpande, learned counsel for  
the applicant.

: Shri I.S. Thorat, learned Presenting  
Officer for the respondent authorities.

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**CORAM : JUSTICE SHRI P.R. BORA, VICE CHAIRMAN**

**RESERVED ON : 17.01.2024**

**PRONOUNCED ON : 18.01.2024**  
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**O R D E R**

Heard Shri Ajay Deshpande, learned counsel for the  
applicant and Shri I.S. Thorat, learned Presenting Officer for the  
respondent authorities.

2. The applicant has preferred the present Original Application seeking quashment of the order dated 5.12.2023, whereby he has been transferred from Georai District Beed to Sengaon District Hingoli. It is the grievance of the applicant that within 10 months of his joining at Georai he has been transferred that too at a place at the distance of more than 200 kms. It is another grievance of the applicant that he was transferred to Georai by giving him the benefit of couple convenience. Wife of the applicant is working as Anesthesiologist at Women's Hospital at Neknur, District Beed.

3. The respondents have filed their affidavit in reply and has thereby opposed the contentions raised in the O.A. and the prayers made therein. Sum and substance of the contention raised on behalf of the respondents is that there are several complaints against the applicant from the employees in the Hospital, employees in the Maternity Home, the patients, as well as, local MLA. On receiving such complaints, the committee was constituted to make an enquiry in that regard. On 12<sup>th</sup> October, 2023 the said committee inquired into the complaints received against the applicant. The committee recorded the statements of several employees and ultimately recorded a conclusion that the applicant has failed to discharge

the duties up to the mark and his work was found as dereliction of duties. The report of the committee was then forwarded to the Deputy Director of Health Services, Latur (respondent No. 2), as well as, to the Commissioner, Health Services, Mumbai (respondent No.1) on 18.10.2023. In the aforesaid circumstances the applicant was required to be transferred.

4. In the affidavit in reply, the respondents have stated that the Civil Services Board also considered the matter and recommended the transfer of the applicant and the proposal so moved was approved by the highest competent authority i.e. the Hon'ble Chief Minister. The aforesaid contentions are denied by the applicant by filing rejoinder affidavit. I have gone through the contentions raised in the said affidavit also.

5. After having considered the entire material on record, it does not appear to me that the respondents have committed any error in making transfer of the applicant vide the impugned order. The said order has been passed for genuine reasons and by following the procedure prescribed therefor. It is well established that the transfer is an incidence of service and the Courts/Tribunals should not ordinarily interfere in such orders. If the reason exists, by recording the same and by following the prescribed procedure the State can transfer its employee even

before he completes his tenure at the place. If the transfer is effected due to exceptional circumstances or special reasons, the competent authority by recording the said reasons and with prior approval of the higher authority can transfer the Government servant before completion of his tenure posting in such cases. In the present matter, the respondents have assigned the reasons for midterm and mid-tenure transfer of the applicant. Civil Services Board has also recommended for his transfer and the Hon'ble Chief Minister has approved the proposal of transferring the applicant from Georai to Sengaoon in Hingoli District. As such, I see no reason for causing any interference in the said order.

6. While arguing the matter one more submission was made by the learned counsel for the applicant that the applicant was transferred to Georai by giving him the benefit of couple convenience. Wife of the applicant is working as Anesthesiologist at Women's Hospital at Neknur, District Beed and in the circumstances the applicant was also given the posting in Beed District. It was the contention of the learned counsel that if ultimately the Tribunal reaches to the conclusion that no interference is required in the order of transfer, the respondents shall at least be directed to give posting to the

applicant as well as his wife in any one district. The respondents have not denied that the applicant was brought at Georai by making his transfer to the said place as because his wife was posted at Women's Hospital at Neknur, District Beed. The applicant now has been transferred at Sengaon, District Hingoli, which is at the distance of more than 200 kms from Georai. As has come on record wife of the applicant is serving as Anesthesiologist at Neknur District Beed. There are Government Circulars and the GRs, which provide that if husband and wife both are working, they shall be given posting in one district as far as possible. The applicant has come out with the request that he and his wife shall be given posting in one district. The request made by the applicant cannot be said to be unreasonable.

7. Having considered the facts as aforesaid though it is not possible for the Tribunal in the present matter to issue any mandate to the respondents, I deem it appropriate to observe that the respondents shall consider the request of the applicant in the ensuing annual general transfers and if it is possible and practicable, the applicant as well as his wife both may be given posting in one district.

8. With the observations as above, the following order is passed: -

**ORDER**

The Original Application stands dismissed however, without any order as to costs.

**VICE CHAIRMAN**

O.A.NO.1051-2023 (SB)-2024-HDD-Transfer