

ORIGINAL APPLICATION NO. 448/2022
(Shri Laxmikant S. Gojre Vs. State of Maharashtra & Ors.)

CORAM : Hon'ble Justice Shri P.R. Bora,
Vice Chairman
(VACATION COURT)

DATE : 11.5.2022

ORAL ORDER :

Heard Shri Kakasaheb B. Jadhav, learned counsel appearing for the applicant and Shri M.P. Gude, learned Presenting Officer appearing for the respondent authorities.

2. The applicant is working as Talathi, presently at village Paithan. Vide order dated 29.4.2022 the applicant has been transferred from Talathi Sajja Paithan to Talathi Sajja Talegaon, Tq. Phulambri, Dist. Aurangabad. The learned counsel submitted that the order of transfer so issue is contrary to the provisions under the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short the Transfer Act, 2005), as well as, the general principles of transfer. The learned counsel submitted that the reasons, which are assigned for effecting transfer of the applicant, can be interpreted to mean that the applicant has been transferred by way of punishment. Relying on the judgment of the Hon'ble Supreme Court in the case of **Somesh Tiwari Vs. Union of India and Others, (2009) 2 SCC 592** more particularly

referring to para nos. 19 & 20 of the said judgment, the learned counsel submitted that the course adopted by the respondents is impermissible. The learned counsel further submitted that there are old parents of the applicant, who are being looked after by the applicant and he is also undergoing some treatment and for both reasons the impugned transfer has subjected the applicant to harassment. The learned counsel in the aforesaid circumstances prayed for staying the implementation of the order of transfer impugned in the present Original Application till decision of the present application. In the alternative he prayed for directing the respondents to maintain Status quo as on today. The learned counsel submitted that as per his instructions the applicant is still working as Talathi at Sajja Paithan.

3. The learned Presenting Officer opposed for granting any interim relief in favour of the applicant. The learned Presenting Officer submitted that the applicant has been relieved on 9.5.2022 and the relieving order has been served on the applicant on 9.5.2022 itself. The learned Presenting Officer further pointed out that a detailed order has been passed on 29.4.2022 explaining the circumstances, which have necessitated the transfer of the applicant from Talathi Sajja Paithan to Talathi Sajja

Talegaon, Tq. Phulambri, Dist. Aurangabad. The learned Presenting Officer submitted that prior to ordering the transfer of the present applicant the consultation has been made with the learned District Collector, Aurangabad, who has also given report adverse to the present applicant.

4. After having considered the submissions advanced by the learned counsel appearing for the applicant and the learned Presenting Officer appearing for the respondent authorities and on perusal of the documents filed on record, it is revealed that there are serious allegations against the applicant of having ignoring and not taking any action against the illegal excavation of sand from the riverbed. The District Collector, Aurangabad has also submitted the similar report. Thus, it prima-facie appears that the transfer of the applicant has been effected with some valid reasons and after consultation with the District Collector, Aurangabad. At this stage it may not be proper on my part to indulge in making more discussion. If it is the contention of the applicant that the allegations made against him are false, the said fact can be established only at the time of final hearing of this O.A. In the circumstances, I am not inclined to grant any interim relief as prayed for at least till filing of the affidavit in reply by the respondents. In the circumstances, following order is passed :-

ORDER

1. Issue notices to the respondents, returnable on 8.6.2022.
2. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.
3. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
4. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
5. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.
6. S.O. to 8.6.2022.
7. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN