

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.473 OF 2023

(From Nagpur Bench through Video Conferencing)

Shri Sanjay G. Pujalwar ... Applicant
Vs.
The State of Mah. & ors. ... Respondents

Shri A.V. Bandiwadekar , Advocate for Applicant.

Learned Presenting Officer for Respondents.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 25.05.2023

ORDER

1. The Applicant has challenged the transfer order dated 22.05.2023 whereby he is transferred from the post of Sub-Divisional Police Officer/Deputy Superintendent of Police, Wani, District Yeotmal to Headquarter, Yeotmal and in his place, Respondent No.4 – Ganesh R. Kindre is posted who was at Satara.

2. The learned Advocate for the Applicant submits that though Applicant was due for transfer having completed normal tenure of two years, he made representation asking for one year extension since he is retiring on 31.03.2024 and also gave options of Pandharkawada, District Yeotmal and Deulgaoraja, District Buldhana. He has pointed out that as per Section 5(1) of 'Transfer Act 2005', the tenure of the Applicant can be extended in view of his retirement within a year. He, therefore, sought stay to the transfer order. The learned Advocate for the Applicant has further pointed out that one post of Pandharkawada, District Yeotmal is

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still vacant which was the option given by the Applicant and it should have been accepted.

3. The learned P.O. opposed the interim relief *inter-alia* contending that the Applicant as well as Respondent No.4 – Ganesh R. Kindre is already relieved from their present post and further pointed out that if transfer order is stayed, it would have cascading effect and transfers of various Police Officers will be stuck.
4. Though Applicant has completed normal tenure at Wani, District Yeotmal in terms of Section 5(1) of 'Transfer Act 2005', his tenure could have been extended in view of his retirement on 31.03.2024. No reason is forthcoming for not accepting his request for extension. However, at the same time, one should not be oblivious of the fact that by transfer order dated 22.05.2023, 119 Police Officers in the cadre of Deputy Superintendent of Police are transferred among themselves and if transfer of Applicant is stayed, it would have cascading effect to stay and affect the transfers of various Police Officers, since it is a chain transfer. Therefore, it would not be appropriate to stay the transfer order, particularly when the Applicant is transferred in the same District and is posted at Headquarter.
5. Indeed, the Applicant being retiring within a year either his request for extension ought to have been considered or he ought to have been given posting as per his option.
6. Respondent No.1 – Government is, therefore, directed to consider the request of the Applicant for transfer at Pandharkawada, if possible, positively. The Applicant shall make representation afresh within three days and it should be decided within two weeks from the date of receipt in the light of observation made by the Tribunal as above. Till then, the post of Pandharkawada should not be filled-in.

7. Issue notice to the Respondents made returnable on 9th June 2023.
8. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.
9. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
10. 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.
11. In case notice is not collected within seven days or service report on affidavit is not filed three days before returnable date, the O.A. shall be placed on board before the concerned Benches under the caption "for Dismissal" and thereafter on the subsequent date the O.A. shall stand dismissed.
12. The service may be done by Hand Delivery/Speed Post/Courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.
13. S.O. to 9th June, 2023. Steno-copy allowed.

Sd/-

(A.P. KURHEKAR)
Member-J

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20____

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Original Application No. _____ of 20____

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date: 25.05.2023</p> <p align="center">O.A. No.474 of 2023 (Nagpur) (Through Video-Conferencing)</p> <p>S.N. PatweApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <p>1. Heard Shri S.S. Dere, learned Advocate for the Applicant and also Heard Shri M.I. Khan, learned Presenting Officer for the Respondent No.1 as well as Shri G.K. Bhusari, learned Advocate for the Respondent No.2 through Video-Conference.</p> <p>2. The Applicant was posted as Deputy Director of Education, Amravati by order dated 30.12.2021 in view of his request for Transfer by virtue of Rule 12 of cadre Allotment Rules, 2021. As per provision of Transfer Act, 2005 he is entitled for 3 years tenure at Amravati. However Government by order dated 23.05.2023 posted Respondent No.2 – Nilima R. Takey in place of the Applicant on medical ground without issuance of posting and Transfer order of the Applicant and he is left in abeyance. In transfer order dated 23.05.2023 it is stated that the Applicant's posting and transfer order will be issued later-on independently. Thus the effect of order dated 23.05.2023 is displacement and shifting of the Applicant from his present post though he has not completed normal tenure.</p> <p>3. Shri S.S. Dere, learned Advocate for the Applicant therefore sought interim relief and has also pointed out that no reason much less special reason is forthcoming to shift and displace the Applicant from the present post. He has further pointed out that indeed CSB had recommended to transfer Respondent No.2 at Amravati in place of one Shri Ulhas Narad who was also transferred by order dated 23.05.2023.</p> <p>4. Learned P.O. as well as learned Advocate for the Respondent No.2 opposed the interim relief stating that Respondent No.2 has already joined in place of the Applicant on 24.05.2023.</p> <p align="right">[P.T.O.]</p>

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>5. Learned P.O. Shri A.J. Chougule has also tendered file for the perusal of Tribunal.</p> <p>6. The perusal of file reveals that CSB as well as Department recommended for transfer of Respondent No.2 in place of Mr. Ulhas Narad. However Hon'ble Chief Minister at his level passed order to post Respondent No.2 as Deputy Director, Amravati. Notably, no reason for displacement of the Applicant much less special reason or administrative exigency is mentioned in the file. Indeed, in sofaras the Applicant is concerned there was no such recommendation of CSB neither Department placed any such proposal for the transfer of the Applicant. It is only at the level of C.M. the Respondent No.2 is ordered to be posted in place of the Applicant which indicate that only to favor Respondent No.2 the Applicant is displaced without there being any such special reasons or Administrative exigency.</p> <p>7. Merely because Respondent No.2 joined in haste that would not come in way of the Applicant to claim interim relief since <i>ex-facie</i> his displacement is in contravention of provision of Transfer Act, 2005.</p> <p>8. It may be noted that there are two posts at Amravati and this being so Respondent No.2 could have been accommodated on another post which is lying vacant in view of transfer of Shri Ulhas Narad instead of disturbing the Applicant from his present post.</p> <p>9. In view of above, I am satisfied that it is fit case to grant interim relief and to stay implementation of transfer order dated 23.05.2023 and to continue the Applicant in his present post.</p> <p>10. In meantime Respondent No.1 is at liberty to pass appropriate order for giving posting to the Respondent No.2 on another post which was held by Mr. Ulhas Narad and presently vacant.</p> <p>11. Since, Respondents are already served and the counsel for Respondent including Private Respondent made appearance, issuance of notice is dispensed with. They shall file Affidavit-in-Reply by next date.</p> <p>12. S.O. to 14.06.2023.</p> <p style="text-align: right;">Sd/- (A.P. Kurhekar) Member (J)</p> <p>NMN</p>