

O.A.457/2016

Shri A.B. Patil ... Applicant
V/s.
The State of Mah. & ors. ... Respondents

Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Ms. N.G. Gohad, the learned P.O. for the Respondents.

Issue notice returnable on 02.06.2016.

Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.

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.

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.

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 four weeks. Applicant is directed to file Affidavit of compliance and notice.

S.O. to 2nd June, 2016. Learned P.O. do waive service. The Respondents have been served.

DATE: 30/5/16

CONART:

~~HEARD BY: R.B. MALIK~~

(Chairman)

BY: ~~R.B. MALIK~~ (Member)

APPLICANT:

Sd/- A.V. Bandiwadekar

Applicant's Advocate

~~Sd/-~~ N.G. Gohad

Learned P.O. for the Respondents

Adj. To: 2/6/2016

BTE

Sd/-

(R.B. Malik) 30-05-16
Member (J)
30.05.2016

(skw)

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No. _____ of 20 _____ DISTRICT _____
..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

O.A.460/2016

Shri C.S. Dhotre ... Applicant

V/s.

The State of Mah. & ors. ... Respondents

Heard Shri K.R. Jagdale, the learned Advocate for the Applicant and Shri N.K. Rajpurohit, the learned C.P.O. for the Respondents.

Shri Rajpurohit, the learned C.P.O. is being instructed by Shri Anil M. Anjankar, Dy. Conservator of Forest. The Applicant is a Forester and is stung by the order of transfer from Parli, District Satara to the post of Assistant Plantation Officer, Social Forestry, Satara. The learned Advocate Shri Jagdale makes a statement that despite the statement to the contrary made by the learned CPO under instructions from the Officer named above, the Applicant continues to function in the post which he has been transferred from by the impugned order. Even otherwise, I make it clear that no judicial forum including this one can be made to face the state of *fait accompli* and that should be a basic tenet which civilized jurisprudence and public administration function on. With this abundant clarification, I find that in order to have a clearer picture including the facts which fall within the domain of Section 4(4), 4(5) and also Section 6 of the Transfer Act, a short adjournment will have to be given to the Respondents to submit an Affidavit and also record, if any to judge as to whether the impugned transfer order passes muster with the test of the Transfer Act. It apparently appears that the Applicant had not completed six years in the post that he has been transferred from. A copy of the Office Order dated 30.5.2016 ex-facie showing that

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

one Mr. Gite has replaced the Applicant is submitted by the learned CPO. I have made the legal position quite clear already. The said order was made with knowledge of this OA.

Issue notice returnable on 03.06.2016.

Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.

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.

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.

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 four weeks. Applicant is directed to file Affidavit of compliance and notice.

S.O. to 3rd June, 2016. Learned P.O. do waive service. The Respondents have been served.

Sd/-

(R.B. Malik)
Member (J)
30.05.2016

(skw)

DATE: 30/5/16

CORAM:

Hon'ble Shri. RAJIV AGARWAL
(Vice-Chairman)

Hon'ble Shri R. B. MALIK (Member)]

APPEARANCE:

Shri/Smt. K.R. Jagdale

Advocate for the Applicant

Shri A.K. Rajpurohit

C.P.O / P.O. for the Respondents

Adj. To: 21/6/16

BTE