

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**COMMON ORDER IN ORIGINAL APPLICATION NOS. 395 AND
396 BOTH OF 2018
(Subject – Transfer)**

1. ORIGINAL APPLICATION NO. 395 OF 2018

DISTRICT : BEED

Shri Manohar s/o Kundlik Bade,)
Age: 52 years, Occu. : Van Majoor (Group-D),)
Presently working under the Range Forest)
Office, Dharur, Tq. Dharoor, Dist. Beed.)

.. **APPLICANT**

V E R S U S

- 1) **The Chief Conservator of Forest,**)
Station Road, Aurangabad.)
- 2) **The Divisional Forest Officer,**)
Beed, District Beed.)
- 3) **The Range Forest Officer,**)
Range Forest Officer, Dharur,)
Tq. Dharur, District Beed.)

) .. **RESPONDENTS**

W I T H

2. ORIGINAL APPLICATION NO. 396 OF 2018

DISTRICT : BEED

Shri Shamsunder s/o Raghunath Matre,)
Age: 52 years, Occu. : Van Majoor (Group-D),)
Presently working under the Range Forest)
Office, Dharur, Tq. Dharoor, Dist. Beed.)

.. **APPLICANT**

V E R S U S

- 1) **The Chief Conservator of Forest,**)
Station Road, Aurangabad.)

- 2) **The Divisional Forest Officer,**)
Beed, District Beed.)
- 3) **The Range Forest Officer,**)
Range Forest Officer, Dharur,)
Tq. Dharur, District Beed.)

.. RESPONDENTS

APPEARANCE :Shri J.S. Deshmukh, Advocate for the
Applicants in both the O.As.

:Smt. Priya R. Bharaswadkar and Shri N.U.
Yadav, Presenting Officers for Respondents in
O.A. Nos. 395/2018 and 396/2018 respectively.

CORAM : JUSTICE M.T. JOSHI, VICE CHAIRMAN.

DATE : 16.10.2018.

ORAL COMMON ORDER

1. Heard Shri J.S. Deshmukh, learned Advocate for the applicants in both the O.As. and Smt. Priya R. Bharaswadkar, and Shri N.U. Yadav, learned Presenting Officers for respective respondents in respective O.As.

2. By the present Original Applications, the applicants are seeking following common relief:-

“b) The impugned order of transfer dtd. 31.05.2018 by which applicant is posted on the post of Vanmajoor (Group-D) under the Range Forest Officer, Parli-Vaijanath, District Beed from Range Forest Officer, Dharur, Tq. Dharur, District Beed may kindly be quashed and set-aside to the extent of Applicant”

3. It is an admitted fact that the present applicants are Group-D category employees working as Vanmajoor. Admittedly, the applicants could not have been ordinarily transferred as provided under Section 3(2) of the Maharashtra Government Servants Regulations of Transfer and Prevention of Delay in Discharge of Official Duties Act 2005 (in short “the Transfer Act 2005”), which runs as under:-

“3 Tenure of posting.

(1)

(2) *Employee in Group D shall normally not be subjected to fixed tenure. They shall not be transferred out from the station where they are serving except on request when a clear vacancy exists at the station where posting is sought, or on mutual transfer, or when a substantiated complaint of serious nature is received against them.”*

4. It is an admitted fact that no any of the above contingencies had arisen as detailed supra for transferring the present applicants. The only defense is that for administrative reason the applicants were transferred. The same cannot be sustained.

5. Learned Presenting Officers have submitted that two employees are posted on the same place upon transfer of the present applicants.

6. Learned Advocate for the applicants points out towards admitted fact as has been reiterated in paragraph No. 3 of the affidavit in reply of respondent No. 2 that those posts are supernumerary posts and the transfers are not vice-versa. Therefore, the respondents may continue other employees, who are transferred on the same place or may take certain other decision in equity regarding those employees. In the circumstances, following order :-

ORDER

1. O.A. Nos. 395 and 396 both of 2018 are allowed without any order as to costs.
2. The impugned order dated 31.05.2018 (Annexure A-1, page no. 8) to the extent of present applicants transferring them from Dharul to Parali is hereby quashed and set aside.
3. The concerned respondents are directed to issue corrected orders, as soon as possible, and in any case, within a period of two weeks from the date of this order.

PLACE : AURANGABAD.

DATE : 16.10.2018.

VICE CHAIRMAN

KPB S.B. O.A. Nos. 395 & 396 both of 2018 mtj 2018 dies