

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 436 OF 2021**

**(Subject – Transfer)**

**DISTRICT : BEED**

**Adinath S/o Vishvanath Munde,** )  
Age : 42 years, Occu. : Service )  
(Chief Pharmacy Officer Beed), )  
R/o. Chakradhar Nagar, Pangri Road, Beed. )  
Tq. and Dist. Beed. Mob. No. 9423954444. )

**.... APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through its Secretary, )  
Public Health Department, )  
Maharashtra State-Mumbai. )  
10<sup>th</sup> Floor, Complex Building, New )  
Mantralaya, Mumbai. )
2. **The Director of Health Services-2** )  
Commissioner, at Pune. )  
Raj Bahadur Mill Rd., Sangamvadi, )  
Pune, Maharashtra. )
3. **Deputy Director,** )  
Health Services Latur, Division Latur, )  
Tq. and Dist. Latur. )
4. **The Chief Administrative Officer,** )  
Deputy Director, Health Services Latur.)  
Division Latur, Tq. and Dist. Latur. )
5. **Civil Surgeon,** )  
Govt. Hospital, Beed, Tq. & Dist. Beed. )
6. **Civil Surgeon,** )  
Govt. Hospital, Nanded, )  
Tq. & Dist. Nanded. )

**.. RESPONDENTS**

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**APPEARANCE** : Shri S.S. Thombre, Advocate for the Applicant.

: Shri D.R. Patil, Presenting Officer for  
Respondents.

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**CORAM** : **SHRI V.D. DONGRE, MEMBER (J).**

**DATE** : **17.06.2022.**  
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**ORDER**

1. The present Original Application is filed challenging the impugned transfer order of the applicant dated 09.08.2021 (Annexure A-7) issued by the respondent No. 3 i.e. the Deputy Director of Health Services, Latur Division, Tq. and Dist. Latur, whereby the applicant is transferred from District Civil Hospital, Beed to Sub-District Hospital, Hadgaon, Dist. Nanded on the post of Pharmacy Officer.

2. The facts in brief giving rise to this application can be summarized as follows :-

(a) The applicant was working on the post of Pharmacy Officer at District Hospital, Beed from 10.06.2014 till issuance of the impugned order dated 09.08.2021. During the General Transfers of the years 2021, options were called from the applicant. Accordingly, the applicant

submitted options in writing mentioning 7 options on 13.07.2021 (Annexure A-4). Thereafter, the applicant and other eligible employees were called for requisite counseling. Before that the details of vacancies were communicated by the respondent No. 4 i.e. the Chief Administrative Officer, Dy. Director of Health Services, Latur under letter dated 31.07.2021 (part of Annexure A-6 collectively). The respondent No. 5 i.e. the Civil Surgeon, Beed vide office order dated 20.07.2021 (Annexure A-3) communicated the program of counseling; thereby the applicant was called for counseling on 22.07.2021.

(b) It is contended that thereafter, the impugned transfer order dated 09.08.2021 (Annexure A-7) came to be issued transferring the applicant out of Beed District, though various posts in Beed District at the relevant time were vacant. The said posts are still vacant. The impugned transfer order is issued in contravention of the provisions of Transfer Act, 2005 and defeating aim and object of the said Act. The applicant ought to have been considered for transferring him at any of the place of options given by him, which posts were vacant. In view of the same, the impugned transfer order of the applicant is not legal and

proper and is liable to be quashed and set aside. Hence, the present Original Application.

3. The affidavit in reply is filed on behalf of respondent Nos. 1 to 6 by one Dr. Preeti Sudhir Badade, working as I/C Chief Administrative Officer, in the office of Deputy Director of Health Services, Latur Circle, Latur, thereby she denied all the adverse contentions raised in the Original Application. It is specifically contended that the impugned order of transfer is issued by observing the guidelines issued vide G.R. dated 09.04.2018 (Annexure R-1) issued by the General Administration Department. As per the provisions of Transfer Act, 2005 and the above-said G.R., the Civil Services Board was constituted at the office of respondent No. 2 and as per their recommendations, the general transfer orders were issued including the transfer order of the applicant dated 09.08.2021. It is always not possible to accommodate the employee on any of the choices given by him. Moreover, as per the settled principle of law, the Government employee has no legal right for being transferred at a particular place. The impugned transfer order of the applicant is issued in accordance with law by taking into consideration the administrative convenience. There is no any contravention of the

provisions of Transfer Act, 2005 and therefore, the present Original Application is liable to be dismissed.

4. I have heard the arguments advanced at length by Shri S.S. Thombre, learned Advocate for the applicant on one hand and Shri D.R. Patil, learned Presenting Officer for the respondents on the other hand.

5. Undisputedly, the applicant is holding the post of Pharmacy Officer is Class-III employee. He was working on his present posting at District Hospital, Beed since 10.06.2014. The applicant being Class-III employee, his normal tenure of posting is of two tenures of three years each i.e. total six years. In view of the same, in the year 2021 in General Transfers, the applicant was due for transfer having completed tenure of more than six years.

6. Further undisputedly, the Government by issuing G.R. dated 09.07.2021 (part of Annexure A-2 collectively) banned the general transfers till 30.06.2021 and allowed transfers for exceptional circumstances or special reasons up to 14.08.2021 due to prevailing COVID-19 pandemic situation. Further by issuing G.R. dated 29.07.2021 (part of Annexure A-2 collectively) the date of General transfers was extended till 09.08.2021 and

transfers for exceptional circumstances or special reasons were to be made between 10.08.2021 to 30.08.2021.

7. Learned Advocate for the applicant submits that the said G.Rs. dated 09.07.2021 and 29.07.2021 (Annexure A-2) are not in accordance with law and constrained that the provisions of Transfer Act, 2005 and extended date for the General Transfers cannot be recognized. In view of the same, according to him the impugned transfer order of the applicant being issued on 09.08.2021 i.e. beyond stipulated date of 30.05.2021 is mid-term transfer order. No case is made out by the respondents for mid-term transfer of the applicant for exceptional circumstances or special reasons.

8. Learned Presenting Officer opposed the above-said submissions and submitted that in a very peculiar and existing COVID-19 pandemic situation, G.Rs. dated 09.07.2021 and 29.07.2021 were issued by the Government considering the issue of public health.

9. I find much force in the arguments advanced by the learned Presenting Officer. Refusing to read the G.R. dated 09.07.2021 and 29.07.2021 merely for asking is not permissible, when those G.Rs. are very much in existence. The conditions of

both the G.Rs. have to be treated as valid, as the conditions thereof are not declared invalid otherwise and the same was not challenged. In view of the same, I do not find any substance in the arguments advanced on behalf of the applicant in this regard.

10. In the circumstances as above, the impugned order of transfer of the applicant dated 09.08.2021 is the general transfer order and it cannot be said to be mid-term transfer order.

11. From the rival pleadings and the documents on record, it is evident that the procedure for general transfer as contemplated under the Transfer Act, 2005, as well as, the requisite G.R. dated 09.04.2018 (Annexure R-1) are followed by the respondents in its proper perspective. That is so, because the requisite options were called for from the applicant; the applicant submitted his seven options; the applicant was called for counseling; the vacancies were displayed and communicated to the applicant. However, according to the respondents, due to administrative reasons, the applicant could not be accommodated at any of the vacant places, which the applicant had opted.

12. It is pertinent to note here that as per the Step No. 2 of Annexure-1 to G.R. dated 09.04.2018 (Annexure R-1), the

employee is supposed to give 10 options, out of which two options are to be given from difficult area. Perusal of the options given by the applicant dated 13.07.2021 (Annexure A-4) would show that the applicant has given 7 options as against 10 options and none of those options is from difficult area. In view of the same, the applicant has not followed the instructions incorporated in the said G.R. while giving options.

13. It is true that the applicant has not been transferred at any of the places of his choice. In this regard, the learned Presenting Officer placed reliance on the decision of the Hon'ble Supreme Court of India in the matter of **Gujrat Electricity Board and Anr. Vs. Atmaram Sungomal Poshani** reported in **1989 SCC (2) 602** in the said citation, it is held that the transfer is an incident of service. The employee has no legal right to be posted at any particular place.

14. In the case in hand, it is evident that the respondents have followed the requisite procedure as contemplated for executing the transfers in accordance with law. Requisite counseling of the applicant was done. Only because of mentioning in the impugned order that it is done for administrative reasons, it cannot be held that the impugned order of transfer of the applicant is not in

accordance with law. Prima-facie, I do not find any material to infer that the impugned order of transfer of the applicant was issued with any mala-fide. In these circumstances, only because the posts which were opted by the applicant are vacant, it cannot be a ground to quash and set aside the impugned order of transfer, which is otherwise issued in accordance with law. I therefore, find that the Original Application filed by the applicant is devoid of merits and the same is liable to be dismissed. I therefore, proceed to pass following order :-

**ORDER**

The Original Application No. 436/2021 stands dismissed with no order as to costs.

**PLACE : AURANGABAD.**  
**DATE : 17.06.2022.**

**(V.D. DONGRE)**  
**MEMBER (J)**