

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 517 OF 2021**

**DISTRICT:- AURANGABAD**

Manisha Prakashrao Paithane,  
Age : 35 years, Occ. Service as  
Senior Clerk in the office of  
Joint Sub-Registrar, Class-2,  
Sillod, Dist. Aurangabad,  
R/o. Near Kalinka Temple,  
Tilak Nagar, Sillod, Dist. Aurangabad.  
Mob. No. 7972238204

**...APPLICANT**

**V E R S U S**

- 1) The State of Maharashtra,  
Through : The Principal Secretary,  
Revenue & Forest Department,  
Mantralaya, Mumbai-32.
- 2) The Inspector General of Registration  
& Stamp Controller, Maharashtra State,  
New Administrative Building, Pune-1.
- 3) The Joint Sub-Registrar, Class-2,  
Sillod, Dist. Aurangabad. **.. RESPONDENTS.**

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APPEARANCE : Shri K.B. Jadhav, learned counsel  
for the applicant.

: Shri V.R. Bhumkar, learned  
Presenting Officer for the  
respondents.

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

**DATE : 08.06.2022**

**O R D E R**

This Original Application is filed by the applicant  
challenging impugned transfer order dated 30.8.2021

(Annexure 'A-3') issued by the respondent No. 1, thereby transferring him from the post of Senior Clerk, Sub-Registrar's office, Sillod Tq. Aurangabad to the Sub-Registrar's office, Nagpur City No. 1.

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

(a) The applicant was initially appointed on the post of Junior Clerk on 15.10.2007 in the office of Joint Sub-Registrar, Class-I & Stamp Collector, Buldhana. Thereafter, she worked in various offices. She came to be promoted to the post of Senior Clerk by order dated 1.8.2017 by respondent No. 2 and was posted in the office of Joint Sub-Registrar, Class-2, Sillod, Dist. Aurangabad. She joined the said office on 2.8.2017 after being relieved from the office of Sub District Registrar, Class-1, Aurangabad as per relieving order dated 1.8.2017 (Annexure 'A-1').

(b) It is further submitted that the respondent No. 2 issued list of 82 employees, who were due for transfer in general transfers of the year 2021 under the letter dated 30.7.2021 (Annexure 'A-2'). The name of the applicant did not appear in the said list as she was not due for transfer. However, respondent No. 1 while issuing impugned transfer order dated 30.8.2021 (Annexure 'A-3') wrongly mentioned that she was transferred as per her request application. However,

no such request application was made by the applicant for her transfer.

(c) In the circumstances as above, it is contended that the impugned order of transfer of the applicant is issued mid-tenure and midterm. The said order is issued in violation of provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short hereinafter called as “the Transfer Act of 2005”). The applicant has not completed her normal tenure of 6 years at her present place of posting. In the impugned transfer order it is wrongly mentioned that her transfer order is issued in view of the request application made by her. In these circumstances, the impugned order of transfer is not sustainable in the eyes of law and it is liable to be quashed and set aside.

3. Affidavit in reply is filed on behalf of the respondent Nos. 1 to 3 by one Soham S/o. Panjabrao Wayal working as the Deputy Inspector General of Registration and Deputy Controller of Stamps, Aurangabad Division, Aurangabad, thereby he denied adverse contentions raised in the Original Application. It is admitted that the applicant is working on her present posting since 2.8.2017. She has completed 4 years of service on the same post and is liable to be transferred. The impugned transfer order is passed by following the provisions of Section 4 (4) and 4 (5) of the

Transfer Act of 2005. The impugned transfer order is issued by the Competent Transferring Authority and with approval of the next higher authority in accordance with law. The Original Application is, therefore, liable to be dismissed.

4. The applicant has filed affidavit in rejoinder, thereby denying adverse contentions raised in the affidavit in reply filed on behalf of the respondent Nos. 1 to 3.

5. I have heard learned counsel for the applicant on one hand and learned Presenting Officer on the other hand.

6. From the rival facts and the documents on record, it is evident that the applicant belongs to Class-III category and her Competent Transferring Authority is respondent No. 2 i.e. Inspector General of Registration & Stamp Controller, Maharashtra State, New Administrative Building, Pune-1. As per Section 3 of the Transfer Act of 2005 the normal tenure of the applicant is of two full tenures of three years each i.e. six years. However, it is a fact that the applicant has only worked for four years on her present posting. In view of the same, her name did not appear in the list of the eligible employees, who were due for transfer in general transfers of the year 2021 as

reflected in document (Annexure 'A-2'). In terms of Government Resolution dated 29.7.2021 (part of Annexure 'A-5' collectively), the last date for general transfers in the year 2021 was 9<sup>th</sup> August, 2021, whereas transfers under special circumstances or for special reasons were to be effected between 10<sup>th</sup> to 30<sup>th</sup> August, 2021. The impugned transfer order being issued on 30.8.2021, it has to be considered under the special circumstances or special reasons as contemplated under Sections 4 (4) & 4 (5) of the Transfer Act of 2005.

7. No doubt in order to show compliance of Sections 4 (4) & 4 (5) of the Transfer Act of 2005, the respondents have placed on record the copies of the minutes of the meeting held in the Mantralaya dated 25.8.2021 recommending the names of the employees for such transfer, minutes of the Civil Services Board dated 27.8.2021 and the approval of the Hon'ble concerned Minister dated 30.8.2021. Those documents are at page Nos. 40 to 55 of the paper book of the O.A. The name of the applicant appears in the said documents. However, under column 'reason for transfer', the place is kept blank so far as the *applicant* is concerned. Still in the impugned order, it is mentioned that the impugned transfer order is issued on the request made by

the applicant. During the course of the arguments in this regard learned Presenting Officer has placed on record the communication dated 3.11.2021 received by the office of Deputy Inspector General of Registration & Stamp Controller, Aurangabad from the respondent No. 1, thereby it is mentioned that no any request application for transfer was received from the applicant. In view of the same, it is glaring mistake in the impugned order that the transfer order is effected on the request application made by the applicant. Even otherwise, from the minutes, it does not reveal that the transfer of the applicant was necessary for any special reason or exceptional circumstances. In these circumstances, it is evident that the impugned transfer order is issued in violation of Sections 4 (4) & 4 (5) of the Transfer Act of 2005, which were mandatory requirements. The applicant never made request application for her transfer. Hence, the reason mentioned in the impugned order of transfer of the applicant is also incorrect. In these circumstances, the impugned transfer order of the applicant is not sustainable in the eyes of law being issued in contravention of the provisions of Sections 4 (4) & 4 (5) of the Transfer Act of 2005 and, therefore, the same is liable

to be quashed and set aside. I, therefore, proceed to pass the following order: -

**ORDER**

(1) The Original Application is allowed. The impugned transfer order dated 30.8.2021 (Annexure 'A-3') issued by the respondent No. 1, thereby transferring the applicant from the post of Senior Clerk, Sub-Registrar's office, Sillod Tq. Aurangabad to the Sub-Registrar's office, Nagpur City No. 1 is hereby quashed and set aside.

(2) The interim relief granted by this Tribunal on 3.9.2021 stands merged in this final order.

(3) There shall be no order as to costs.

**MEMBER (J)**

**Place : Aurangabad**

**Date : 08.06.2022**