

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 575 OF 2018  
(Subject – Transfer)**

**DISTRICT : AHMEDNAGAR**

**Shri Mohan s/o Khema Jadhav,** )  
Age : 57 years, Occu. : Service )  
(as BDo, Shrirampur P.S.) )  
R/o : Panchayat Samiti Shrirampur Niwas, )  
Dashmesh Nagar, Ward No. 1, )  
Shrirampur, Dist. Ahmednagar. ).. **APPLICANT**

**V E R S U S**

- 1) **The State of Maharashtra,** )  
Through its Secretary, )  
Rural Development Department, )  
M.S. Bandhkam Bhavan, )  
25, Marzban Path, Mumbai - 01. )
- 2) **The Chief Executive Officer,** )  
Zilla Parishad Ahmednagar, )  
Maliwada, Ahmednagar. )
- 3) **Mr. Samadhan Ghanshyam Sonawane,**)  
B.D.O, Panchayat Samiti, Jamod, )  
Dist. Buldhana. ).. **RESPONDENTS**

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**APPEARANCE** : Shri A.S. Deshmukh, Advocate for Applicant.

: Smt. Priya R. Bharaswadkar, Presenting  
Officer for Respondent No. 1.

: Smt. Deepali D. Wagh, Advocate for  
Respondent No. 2

: None present for respondent No. 3.

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**CORAM : B.P. PATIL, MEMBER (J).**

**DATE : 02.11.2018.**

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**ORDER**

1. By filing the present Original Application, the applicant has challenged the order dated 30.07.2018 issued by the respondent No. 1, thereby transferring him from the post of B.D.O., Panchayat Samiti (P.S.), Shrirampur, Dist. Ahmednagar to the post of B.D.O., Panchayat Samiti (P.S.), Dharmabad, Dist. Nanded and the order dated 16.08.2018, by which the respondent No. 3 has been posted in his place and prayed to quash and set aside the said orders.

2. The applicant entered the services as Gram Sevak on 04.08.1986 and in the year 2005, he was promoted as Extension Officer. Thereafter in the year 2001, he was further promoted as Assistant Block Development Officer (BDO). In the year 2016, he was working as Assistant BDO at Panchayat Samiti Kopargaon, Dist. Ahmednagar. At that time, he was promoted to the post of BDO and posted as BDO, Panchayat Samiti Shrirampur, Dist. Ahmednagar. Accordingly, he joined on the post of BDO, Panchayat Samiti Shrirampur, Dist. Ahmednagar on 22.07.2016 and since then, he is discharging his duties. He has not completed his normal tenure of post on the present post i.e. at Shrirampur. He has hardly completed two years on the present

post. He was not due for transfer. He is going to retire on superannuation w.e.f. 31.05.2019.

3. It is contention of the applicant that in the month of November 2017 and March 2018, he filed an application with the respondents in requisite pro-forma with a request to transfer him from the post of BDO, Panchayat Samiti Shrirampur, Dist. Ahmednagar and to post him either at Ahmednagar, Rahuri or Shevgaon considering his date of retirement. But the respondent No. 1 without considering his request for transfer at particular place, issued the impugned order dated 30.07.2018 and transferred him as BDO, Panchayat Samiti Dharmabad, Dist. Nanded. It is his contention that he never opted for Dharmabad in Nanded district. It is his contention that the impugned order is in contraventions of the provisions of Section 4(4) and 4(5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short "the Transfer Act 2005"). It is a mid-term and mid-tenure transfer and the said order has been under the garb of his request but he never opted for Dharmabad. It is his further contention that the respondent No. 1 thereafter issued the order dated 16.08.2018 and posted the respondent No. 3 on his post as BDO, Panchayat Samiti Shrirampur, Dist. Ahmednagar. It is his

contention that no special circumstances has been made out by the respondents while issuing the impugned order and no special reasons have been recorded while effecting his transfer. The impugned order is illegal and not maintainable in the eye of law. It is his contention that the distance between Shrirampur and Dharmabad is about 400 kms and the said transfer is causing inconvenience to him. He is on the verge of retirement, but the respondent No. 1 has not considered the said aspect while making his transfer. Therefore, the impugned order is in contraventions of the provisions of the Transfer Act 2005. Therefore, he has challenged the impugned orders dated 30.07.2018 and 16.08.2018 by filing the present Original Application.

4. The respondent No. 1 resisted the contention of the applicant by filing his affidavit in reply. He has denied that the impugned transfer order of the applicant is in contraventions of the provisions of Section 4(4) and 4(5) of the Transfer Act 2005. He has not disputed the fact that the applicant has not completed his normal tenure of posting at Shrirampur and the impugned order has been issued in the midst of the term and tenure of the applicant. It is his contention that there are complaints of serious nature against the applicant. One Shri

Sharad Mohanrao Navale, Chairman of Agriculture, Animal Husbandry and Dairy Committee, Zilla Parishad, Ahmednagar, moved the resolution against the applicant regarding his irregularity in the work and inaction on the part of the applicant before the General Body of Zilla Parishad, Ahmednagar. The Resolution No. 236 had been unanimously passed in the General body of Zilla Parishad, Ahmednagar in its meeting dated 19.03.2018. The Zilla Prishad decided to recommend the concerned authority either to send the applicant on compulsorily leave or to transfer the applicant out of Ahmednagar district. Not only this, but Shri S.M. Navale filed detailed complaint in that regard against the applicant with the State Minister, Rural Development Department by letter dated 29.03.2018. On the basis of complaint filed against the applicant, the Departmental Enquiry was initiated against the applicant by the Government memorandum dated 10.05.2018. A charge sheet was issued to the applicant and the enquiry officer and presenting officer were appointed in the enquiry.

5. It is contention of the respondent No. 1 that the applicant had also requested the Government to transfer him on the post of Deputy Chief Executive Officer (Water supply and sanitation) or Block Development Officer, Panchayat Samiti,

Shevgaon, Dist. Ahmednagar or Block Development Officer in Panchayat Samiti, Rahuri, Dist. Ahmednagar. On the basis of his request, the proposal for his transfer was placed before the Civil Services Board in the meeting dated 07.05.2018. The Civil Services Board considered the proposal, but not recommended the transfer of the applicant, as there were no vacancies on the place of the applicant's choice. Thereafter, the recommendation of the Civil Services Board was placed before the Hon'ble Minister concerned. The Hon'ble Minister concerned, who is the competent transferring authority of the applicant, disagreed with the recommendation of the Civil Services Board, but he proposed the transfer of the applicant on the basis of the resolution of the Zilla Parishad passed in the general body meeting. The said decision of the competent authority along with recommendation of the Civil Services Board had been placed before the Hon'ble Chief Minister, who is the next / higher competent transferring authority, for transfer of the applicant, for his approval. The Hon'ble Chief Minister approved the said proposal and therefore, the concerned respondent issued the impugned order dated 30.07.2018 transferring the applicant from Shrirampur to Dharmabad. It is his contention that the transfer of the applicant has been made after following the mandatory provisions of

Section 4(4) and 4 (5) of the Transfer Act 2005 because of the complaint of serious nature. The applicant has been transferred on account of administrative exigencies. The exceptional circumstances were made out by the respondents, while effecting the transfer of the applicant and there is no violation of the provisions of the Transfer Act 2005.

6. It is further contention of the respondent No. 1 that the respondent No. 3 has been appointed on the vacant post of the applicant and there is no illegality in the said order. Therefore, he prayed to reject the present Original Application.

7. The respondent No. 2 has filed his affidavit in reply and resisted the contention of the applicant. It is his contention that in view of the transfer order dated 30.07.2018, he has relieved the applicant on 02.08.2018 for joining his new posting. Thereafter, by order dated 16.08.2018 issued by the respondent No. 1, respondent No. 3 has been posted in the place of the applicant. The Respondent No. 3 joined his new posting on 15.09.2018. It is his contention that the process of relieving of the applicant has already been completed by following due process prior to issuance of the interim order by this Tribunal on

03.08.2018. Therefore, he prayed to reject the present Original Application.

8. I have heard Shri A.S. Deshmukh, learned Advocate for the applicant, Smt. Priya R. Bharaswadkar, learned Presenting Officer for respondent No. 1 and Smt. Dipali D. Wagh, learned Advocate for respondent No. 2. None present for respondent No. 3. I have perused the documents placed on record by both the parties.

9. Admittedly, The applicant joined his services with the respondents as Gram Sevak on 04.08.1986. He was promoted as Extension Officer in the year 1995. In the year 2001, he was further promoted as Assistant Block Development Officer (BDO). In the year 2016, he was promoted to the cadre of BDO, when he was serving at Panchayat Samiti, Kopargaon, Dist. Ahmednagar . Accordingly, he joined his new posting as BDO, Panchayat Samiti Shrirampur, Dist. Ahmednagar on 22.07.2016 and since then he was serving there till the issuance of the impugned order dated 30.07.2018. Admittedly, the applicant has not completed his normal tenure of post on the present post i.e. at Shrirampur. He has hardly completed two years on the present post. Admittedly, the applicant moved the application in the month of



November 2017 and March 2018 and requested the respondents to transfer him either at Ahmednagar, Rahuri or Shevgaon. Admittedly, the request application of the applicant along with proposal of the department has been placed before the Civil Services Board in the meeting dated 07.05.2018. The request of the applicant for transfer to Ahmednagar, Rahuri and Shevgaon had not been accepted by the Civil Services Board due to the unavailability of vacancies at those places. Thereafter, the Hon'ble Minister concerned, the competent authority disagreed with the recommendation of the Civil Services Board and recommended the transfer of the applicant at Dharmabad, Dist. Nanded on the basis of Resolution No. 236 dated 19.03.2018 passed in the general body meeting of the Zilla Parishad, Ahmednagar. The recommendation of the competent authority i.e. the Minister concerned has been approved by the Hon'ble Chief Minister and thereafter, order dated 30.07.2018 has been issued. Admittedly, thereafter, the respondent No. 1 issued another order dated 16.08.2018 and posted the respondent No. 3 in place of the applicant. Admittedly, the impugned transfer order is mid-term and mid-tenure transfer order.

10. Learned Advocate for the applicant has submitted that the impugned transfer order of the applicant is against the

provisions of Section 4(4) and 4(5) of the Transfer Act 2005. He has submitted that no exceptional circumstances have been made out by the respondents while effecting the transfer of the applicant and no special reasons have been recorded while issuing the impugned order as required under Section 4(4) and 4(5) of the transfer Act 2005. He has submitted that only on the basis of resolution of the Zilla Parishad Ahmednagar, the transfer of the applicant has been effected and the impugned transfer order is in contraventions of the provisions of the G.R. dated 11.02.2015. He has relied on the paragraph Nos. 3 and 8 of the said G.R. He has submitted that the guidelines contained therein have not been followed by the respondents while effecting the transfer of the applicant and therefore, the transfer order is illegal and in violation of the provisions of Section 4 (4) and 45 (5) of the Transfer Act 2005.

11. Learned Advocate for the applicant has further submitted that the applicant never opted for his transfer at Dharmabad, Dist. Nanded. He made request to the respondents to transfer him either at Ahmednagar, Rahuri or Shevgaon, considering the fact that he is going to retire w.e.f. 31.05.2019. But the respondents have not considered his request and transferred the applicant by the impugned order dated

30.07.2018 and posted him at Dharmabad, Dist. Nanded, which is 400 kms away from Shrirampur. He has submitted that because of the impugned transfer order, inconvenience will be caused to the applicant, as the impugned transfer order has been made when the applicant is on the verge of retirement of the applicant. He has submitted that the impugned transfer order has been made due to political pressure and therefore, the impugned transfer order is mala-fide and hence, he prayed to quash and set aside the impugned order by allowing the present Original Application.

12. Learned Advocate for the applicant has further argued that the department has proposed the transfer of the applicant as per his request, but the Civil Services Board had not recommended his transfer. The department has not proposed the transfer of the applicant on the basis of the resolution of the Zilla Parishad, but the competent authority i.e. the Hon'ble Minister concerned has not accepted the recommendation of the Civil Services Board and decided to transfer the applicant at Dharmabad on the basis of resolution of the Zilla Parishad, Ahmednagar, without recording the reasons. He has submitted that in view of the guidelines given in the G.R. dated 11.02.2015, it is incumbent on the part of the competent transferring

authority to record reasons, but no reasons and special circumstances have been recorded by the respondents while issuing the impugned order of transfer. There is nothing on record to show that how the continuation of the applicant on the present post would be gravely prejudiced to the public interest and therefore, in the absence of the reasons and extraordinary circumstances, the transfer of the applicant is illegal. Therefore, he prayed to allow the O.A. and also prayed to quash and set aside the impugned orders dated 30.07.2018 and 16.08.2018.

13. Learned Presenting Officer has submitted that there were several irregularities in executing the work when the applicant was serving as a Block Development Officer, Panchayat Samiti, Shrirampur. There were financial irregularities. The applicant was disobeyed the orders of the superior officers while implementing the Government schemes. Therefore, Shri S.M. Navale, Member of Zilla Parishad has filed complaint against the applicant about the irregularities in the work done under the Government schemes. He has also moved a resolution in that regard in the general body meeting of the Zilla Parishad. The said resolution No. 236 was considered by the general body of the Zilla Parishad Ahmednagar in the meeting dated 19.03.2018 and it had unanimously resolved to make request to concerned

authority to send the applicant on compulsory leave or to transfer him out of Ahmednagar district. She has submitted that the said resolution was forwarded to the concerned department for taking necessary action. Not only this, but the departmental enquiry has been initiated against the applicant and the Enquiry Officer and Presenting Officer have been appointed for making enquiry of the applicant. The charges leveled against the applicant shows that there were financial irregularities in granting the payment regarding the work done by the contractors and there were irregularities in granting the tenders by the applicant. She has submitted that meanwhile, the applicant has requested to make his transfer. The department has proposed the transfer of the applicant on his request, but the proposal of the transfer of the applicant as proposed by the department has not been accepted by the Civil Services Board, as there were no vacancies on the place, where the applicant has given choices for his transfer. The said proposal along with the recommendation of the Civil Services Board had been placed before the Hon'ble Minister concerned. The Hon'ble Minister concerned considered the resolution passed by the Zilla Parishad, Ahmednagar in its general body meeting dated 19.03.2018 and disagreed with the recommendation of the Civil Services Board and decided to

transfer the applicant from Shrirampur, Dist. Ahmednagar to Dharmabad, Dist. Nanded. She has submitted that the transfer of the applicant is mid-term and mid-tenure. The decision of the Hon'ble Minister concerned had been placed before the Hon'ble Chief Minister, who is the next / higher competent transferring authority. The Hon'ble Chief Minister approved the same and thereafter, the respondents issued the impugned order of transfer. She has submitted that the impugned order has been issued in view of the guidelines given in the G.R. dated 15.02.2015. The extraordinary and exceptional circumstances have been made out while making the transfer of the applicant. The reasons have been recorded by the competent transferring authority while transferring the applicant. Not only this, but the prior approval of next / higher competent authority has been obtained for the transfer of the applicant and thereafter, impugned order of transfer dated 30.07.2018 has been issued. She has submitted that there were serious charges of irregularities in allotting work and disbursing amount, as well as, corruption in the work by the applicant. It decided that it will not be just to continue the applicant on the present post i.e. at Shrirampur and therefore, he has been transferred to Dharmabad on account of administrative exigencies. She has

submitted that there is sufficient compliance of the provisions of Section 4 (4)(2) and 4(5) of the Transfer Act 2005 and there is no illegality in the impugned order of transfer. Therefore, she supported the impugned transfer order.

14. Learned Presenting Officer has further argued that the applicant has been relieved from his post as Block Development Officer, Panchayat Samiti, Shrirampur on 02.08.2018. He approached this Tribunal and obtained the interim relief on 03.08.2018. The applicant has been relieved before issuance of interim order and thereafter, the post of BDO, Panchayat Samiti, Shrirampur became vacant and therefore, the respondent No. 1 posted the respondent No. 3 on the vacant post by the order dated 16.08.2018. The respondent No. 3 joined the said post on 15.09.2018. She has submitted that there is no irregularity in the order dated 16.08.2018 also. Therefore, she justified the said order and prayed to reject the O.A.

15. On perusal of the record, it reveals that the applicant has not completed his normal tenure of posting on the present post i.e. at Shrirampur, but he himself made a request with the respondent No. 1 by filing applications in the month of November 2017 and March 2018 and requested to post him at

Ahmednagar, Rahuri or Shevgaon. The department prepared a proposal regarding mid-term and mid-tenure transfers and recommended the transfer of the present applicant as per his request. The said proposal was placed before the Civil Services Board in the meeting dated 07.05.2018. The Civil Services Board had not recommended the transfer of the applicant, as there was no vacancy on the place of choice given by the applicant. The said fact is evident from the minutes of the meeting of the Civil Services Board dated 07.05.2018. On the basis of recommendation of the Civil Services Board, the proposal in that regard has been placed before the Hon'ble Minister concerned, who is the competent transferring authority. The said proposal is at page Nos. 153 to 214 (both inclusive). The Hon'ble Minister concerned i.e. competent transferring authority made certain changes in the proposal, so far as the applicant is concerned. He has not accepted the recommendation of the Civil Services Board and he decided to transfer the applicant from Shrirampur to Dharmabad. He has recorded the reasons against the name of the applicant, which is at page No. 225. On going through the same, it reveals that the transfer of the applicant has been made on the basis of resolution passed by the Zilla Parishad Ahmednagar on administrative ground. The decision of the



competent transferring authority has been placed before the Hon'ble Chief Minister, who is the next / higher competent transferring authority. The Hon'ble Chief Minister approved the same, which is at page No. 253 and thereafter, the impugned transfer order has been issued. The record shows that the Departmental Enquiry has been initiated against the applicant regarding irregularities in the work done within the jurisdiction of Panchayat Samiti, Shrirampur and as regards irregularity committed by the applicant, while disbursing the funds, allotting work and sanctioning the bills. There were serious allegations regarding irregularities committed by the applicant. In the D.E., the enquiry officer and presenting Officer has been appointed. Since the local body i.e. Zilla Parishad recommended the transfer of the applicant because of the inaction on the part of the applicant and for committing the irregularity in the work under Government scheme, the competent authority decided to transfer the applicant from Shrirampur before completion of his normal tenure in the public interest. The competent authority i.e. the Hon'ble Minister concerned recorded reasons for the transfer of the applicant. Therefore, in my view, there is no violation of the guidelines given by the Government vide G.R. dated 11.02.2015.

16. In the G.R. dated 11.02.2015, it has been specifically mentioned in paragraph No. 3 as follows:-

**“ मध्यावधी बदली करताना बदली  
कायद्यातील तरतूदीचे पालन  
करण्यासंदर्भात**

**महाराष्ट्र शासन  
सामान्य प्रशासन विभाग  
शासन परिपत्रक, क्रमांक : एसआरव्ही-२०१४/मुस-३४/प्र.क. ३७९/१२,  
मंत्रालय, मुंबई- ४०० ०३२.  
दिनांक - ११ फेब्रुवारी, २०१५**

- वाचा :- १) सन २००६ चा महाराष्ट्र अधिनियम क्र. २१ दि. १२.०५.२००६.  
२) शासन अधिसूचना, सामान्य प्रशासन विभाग, क्र. एसआरव्ही २००४/ प्र.क. १५/०४/१२ दि. २५.०५.२००६.  
३) शासन निर्णय, सामान्य प्रशासन विभाग, क्र.एसआरव्ही-२०१४/प्र.क. २६/१२, दि. ३१.१२. २०१४  
४) शासन निर्णय, सामान्य प्रशासन विभाग, क्र.एसआरव्ही-२०१४/प्र.क. २६/१२, दि. २०.०५. २०१४  
५) शासन निर्णय, सामान्य प्रशासन विभाग, क्र.एसआरव्ही-२०१४/प्र.क. २६/१२, दि. १९.०१. २०१५

**प्रस्तावना :-**

- १) .....
- २) .....
३. मध्यावधी बदली करताना काही वेळा गैरवर्तणुकीचे कारण हे विशेष कारण किंवा अपरिहार्य परिस्थिती असल्याचे नमूद करून शासकीय / कर्मचा-याची बदली केली जाते. मात्र अशी बदली करताना संबंधीत अधिकारी / कर्मचा-याची खरोखरच बदली करण्याची आवश्यकता आहे किंवा कसे ही बाब तपासली जात नाही या संदर्भात मा. न्यायाधिकरणाने एका प्रकरणात (मूळ अर्ज क्र. ८३९/२०१४ मधील आदेश दि. १३.१०.२०१४) खालील निरीक्षण नोंदविलेले आहे.

35. In the result it has to be concluded that the grounds of misconduct when used as grounds for transfer, those result in a summary action which is a sort of punitive action taken in summery way. The aspects of

*punitiveness may get the secondary status would such lightening action, be justified on the grounds, that the transfer could safeguard the larger public interest, public safety, public order and any other similar exigency.*

*36. It is not shown by the respondents as to how the alleged misconduct of the applicant was so grave that instead of following routine legitimate course of taking disciplinary action and initiation of disciplinary proceedings against applicant, as to how or for what “special reasons” continuation of the applicant on the same post would be so gravely prejudicial to the public interest, that said need would constitute “special reasons” or “extraordinary circumstances”.*

*37. If failure to transfer was about to prejudice public interest and Government records such reasons and elects transfer as quicker recourse, depending on conclusions as may emerge in judicial scrutiny, such reasons may withstand the test of existence of special reasons etc. to fit in second proviso of Section 4(4) of ROT Act 2005, lest the action would turn into a colorable exercise of powers and hence malafide.*

*38. Thus, it is evident that the version contained in the proposal for transfer i.e. letter dated 16.08.2014 alone is the factual foundation of “Special reasons” or exceptional circumstances. Acts of dis-obedience picked up in a short duration, which do not prove and pose any emergency to public interest, cannot and do not ipso facto constitute*

*factual material to answer and justify the stipulation of “Special reasons” or “exceptional circumstances” either.”*

In the said G.R. it has been further mentioned in paragraph no. 8 as follows:-

“८. एखाद्या प्रकरणात ३ वर्षांपेक्षा कमी कालावधी असलेल्या अधिकारी / कर्मचा-याच्या विरोधात गैरवर्तणुकीच्या तक्रारी प्राप्त झाल्यास केवळ तक्रारीच्या आधारे संबंधीत अधिकारी / कर्मचा-याची बदली करण्यात येऊ नये. अशा प्रकरणात संबंधीत अधिकारी / कर्मचा-यांच्या तक्रारीसंबंधीतील वस्तुस्थिती जाणून घेउन (आवश्यक तेथे अहवाल मागवून) तक्रारीमधील गांभीर्य विचारात घेउन, संबंधीत अधिकारी / कर्मचारी त्याच पदावर ठेवणे आवश्यक आहे किंवा कसे याबाबत बदली प्राधिका-याने ठोस निर्णय घ्यावा. संबंधीत अधिकारी / कर्मचा-याच्या विरोधातील तक्रारीमध्ये तथ्य आढळून आल्यास संबंधीत अधिकारी / कर्मचा-याला त्याच पदावर ठेवून त्याच्याविरुद्ध शिस्तभंगाची कारवाई सुरु करण्याबाबत बदली प्राधिका-याने निर्णय घ्यावा. मात्र संबंधीत अधिकारी/कर्मचा-याला त्याच पदावर ठेवणे योग्य नाही असे बदली प्राधिका-याचे मत झाल्यास त्याबाबतची कारणामिमांसा नमूद करून बदली प्राधिका-या संबंधीत अधिकारी/कर्मचा-याची बदली त्याच्या लगतच्या वरिष्ठ प्राधिका-याकडे प्रस्तावित करू शकतो. लगतच्या वरिष्ठ प्राधिका-याकडे असा प्रस्ताव प्राप्त झाल्यास बदली प्राधिका-याने नमूद केलेली कारणे योग्य आहेत किंवा कसे याची छाननी करून स्वतःचे मत स्पष्ट करून बदली प्राधिका-याच्या प्रस्तावाला मान्यता द्यावी किंवा बदली प्राधिका-याचा प्रस्ताव फेटाळून लावण्यात यावा. ज्या प्रकरणात बदली प्राधिका-याच्या प्रस्तावानुसार गैरवर्तणुकीच्या अनुषंगाने शासकीय अधिकारी/कर्मचारी यांची बदली करण्यात येते अशा प्रकरणात संबंधीत अधिकारी/कर्मचारी यांची बदली केल्यानंतर त्याच्या विरुद्ध शिस्तभंगाची कारवाई सुरु करण्याची दक्षता घ्यावी.”

17. In paragraph no. 3 of the said G.R., the observations recorded by this Tribunal in O.A. No. 839/2014 on 13.10.2014 have been reproduced. Considering the facts in this case and the reasons recorded by the competent transferring authority while transferring the applicant, in my view, there is no violation of the

guidelines given in the G.R. dated 11.02.2015. The competent transferring authority thought it proper to transfer the applicant because of the irregularities done by him while discharging his duties and the competent transferring authority had not found it proper to continue the applicant on the same post because of the seriousness in the charges leveled against him and therefore, it has decided to transfer him in the public interest. The special reasons have been recorded for the transfer of the applicant by the competent transferring authority. Because of the exceptional circumstances, the competent transferring authority had decided to transfer the applicant. Therefore, in view of this, in my view, there is no breach of guidelines given in paragraph No. 3 and 8 of the G.R dated 11.02.2015. The respondents had complied with the mandatory requirements of Section 4(4) and 4(5) of the Transfer Act 2005 while effecting the transfer of the applicant before completion of his normal tenure of posting and in the midst of term. There is no violation of the provisions of Transfer Act 2005. The impugned order dated 30.07.2018 transferring the applicant from Shrirampur to Dharmabad is in accordance with the provisions of Transfer Act 2005 and there is no illegality or irregularity in the same. Therefore, no interference is called for in it.

18. After transfer of the applicant, the applicant has been relieved by the respondents on 02.08.2018 before granting interim relief to the applicant by this Tribunal on 03.08.2018. The post of the applicant became vacant and therefore, respondent No. 1 issued the order dated 16.08.2018 and posted the respondent No. 3 on the vacant post of the applicant. There is no illegality in the said order and therefore, no interference is called for in that order also.

19. The impugned orders have been issued by the respondents in view of the provisions of Transfer Act 2005. There is no illegality in both the orders and hence, no interference in the said orders is called for. There is no merit in the present O.A. Hence, the O.A. deserves to be dismissed.

20. In view of the discussions in the foregoing paragraphs, the O.A. is dismissed without any order as to costs. Interim relief granted earlier is hereby vacated.

**PLACE : AURANGABAD.**  
**DATE : 02.11.2018.**

**(B.P. PATIL)**  
**MEMBER (J)**