

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

**ORIGINAL APPLICATION NO. 621 OF 2023  
(Subject – Transfer)**

**DISTRICT : HINGOLI**

**Chhandak Govindrao Lokhande,** )  
Age : 52 years, Occu. : Service as Project )  
Officer, Class-II, Integral Tribal Development )  
Project, Kalamnuri, Tq. Kalamnuri, Dist. Hingoli,) )  
R/o : Sahyog Nagar, Kalanmunir, )  
Tq. Kalamnuri, District Hingoli. )

.... **APPLICANT**

**V E R S U S**

1. **State of Maharashtra,** )  
Through its Additional Chief Secretary, )  
Tribal Development Department, )  
Mantralaya, Madam Cama Road, )  
Hutatma Rajguru Chowk, Annexed )  
Building, Mantralaya, Mumbai- 400032.)
2. **The Commissioner for Tribal Development,)**  
Nasik, Aadiwasi Bhavan, Old Agra Road,) )  
Gadkari Chowk, Matoshri Nagar, Nasik,) )  
District Nasik. )
3. **Shri Sunil Barse,** )  
The Assistant Project Officer, Class-II, )  
Integrated Tribal Development Project, )  
Rajur, Taluka Akole, District Ahmednagar.)

... **RESPONDENTS**

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**APPEARANCE** : Shri V.B. Wagh, Counsel for Applicant.

: Shri M.P. Gude, Presenting Officer for  
respondent authorities.

: Shri R.N. Bharaswadkar, counsel for  
respondent No. 3

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**CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)**

**RESERVED ON : 12.01.2024**

**DATE : 14.02.2024**  
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**ORDER**

1. Heard Shri V.B. Wagh, learned counsel appearing for the applicant, Shri M.P. Gude, learned Presenting Officer appearing for respondent authorities and Shri R.N. Bharaswadkar, learned counsel for respondent No. 3.

2. By this Original Application, the applicant is challenging order dated 11.07.2023 issued by respondent No. 1 thereby posting respondent No. 3 on promotion in place of the applicant as Project Officer, Integrated Tribal Development Project, Kalamnuri, Dist. Hingoli and in view of the same, the applicant stand transferred from the said post. The applicant is seeking directions to restrain the respondent No. 1 from issuing the transfer order of the applicant from the post of Project Officer, Integrated Tribal Development Project, Kalamnuri, Dist. Hingoli to the post of Senior Research Officer, Scheduled Tribe Caste Scrutiny Committee, Kinwat, District Nanded pursuant to the proceedings of minutes of meeting of Civil Services Board

dated 24.05.2023. The applicant is also seeking direction to respondent authorities to modify the order of respondent No. 3 dated 11.07.2023 posting him in place of the applicant by giving a direction to post the respondent No. 3 on promotion on any vacant post as per the proceeding of the minutes of meeting of Civil Services Board.

3. Brief facts giving rise to the Original Application are as follows :-

(i) The applicant was initially appointed vide order dated 16.08.2011 through M.P.S.C. on the post of Assistant Project Officer, Class-II, Integrated Tribal Development Project and posted at Gadchiroli and also worked at various places. The applicant came to be promoted from the post of Assistant Project Officer, Class-II to the post of Project Officer, Class-I pursuant to the decision taken by the respondent No. 1 in the Departmental Promotion Committee Meeting and vide order dated 06.09.2021, the applicant was given posting as Project Officer, Class-I, Integrated Tribal Development Project at Kalamnuri (Annexure A-1).

(ii) It is further case of the applicant that the General Transfers were to be effected and the applicant had given

the representation on 24.05.2023 stating therein that due to family difficulties and the education of his daughter, he may be given the posting at Tribal Development Research and Training Center, Pune or Scheduled Tribe Caste Verification Committee Office, Kinwat, District Nanded. However, on the same day, the applicant had submitted an application for withdrawal of first application dated 24.05.2023 and further stated that he may be retained on the said post and not to transfer him, as he has not completed the normal tenure. The said letter was forwarded to respondent No. 1 on 29.05.2023 by making endorsement.

(iii) It is the further case of the applicant that in the General Transfers of the year 2023-24, which was effected on 30.06.2024, he was not transferred, as he was not due for transfer and his name was also not in the list of the eligible candidates, who were due for transfer. Thus the applicant continued on the said post after the cutoff date, which was extended to 30.06.2024.

(iv) It is the further case of the applicant that the respondent authorities had thereafter held the

Departmental Promotion Committee Meeting in the month of June and the promotions were to be effected for the post of Tribal Development Services, Group-A (Assistant Commissioner / Senior Research Officer / Project Officer Selection Grade-2) and the orders came to be issued of respondent No. 3 on 11.07.2023 showing the applicant's post at Kalamuri to be fallen vacant after his transfer. According to the applicant, the General Transfers for the academic year 2023-24, which were to be effected on or before 30.05.2023 came to be extended for effecting the General Transfers till 30.06.2023. However, the applicant was not transferred till 30.06.2023.

(v) It is the further case of the applicant that the respondent No. 3 was posted on promotion in place of the applicant and shifted the applicant by way of transfer in mid-term and mid-tenure would be in violation of Sections 3, 4, 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").

(vi) The applicant submits that though the applicant had filed his representation for his transfer, immediately thereafter he has withdrawn the said representation on the same day and requested further he may be continued on the same post till his normal tenure is completed.

(vii) It is the further case of the applicant that pursuant to the meeting of the Civil Services Board dated 24.05.2023 according to the respondents, the applicant's transfer is being effected from the post of Project Officer, Integrated Tribal Development Project, Kalamnuri to Senior Research Officer, Scheduled Tribe and Caste Scrutiny Committee, Kinwat in place of one Shri Pravin Latkar. It is also stated that the approval of the superior officer is taken for the transfer of the applicant. The applicant has requested for his transfer at Gadchiroli, Pune and Kinwat due to his family problems.

(viii) In this regard the applicant had filed a request application for mid-term and mid-tenure transfer due to family problems. The applicant submits that he has never given the application dated 22.05.2023 and his signature on the said representation is also bogus. It is signed by the

person, who is interested for the transfer of the applicant. It is also case of the applicant that on representation he never put his mobile number. However, the same appears to have been mentioned on the said representation. It thus indicates that the documents are being manipulated for transfer of the applicant from the said post. The applicant has repeatedly raised the contention that he did not made any application for the request, but till then he has received the telephonic call from the Desk Officer on 23.05.2023 informing thereby that his transfer is being effected as per his request in terms of the representation dated 22.05.2023. Though the applicant had explained to the Desk Officer that he has not submitted the said application, however the process did not stop further.

(ix) It is the further case of the applicant that the respondent No. 3 has got vested interest for his posting as Project Officer, Integrated Tribal Development Project, Kalamnuri, Dist. Hingoli. The representation dated 22.05.2023 has been submitted by unknown person at the behest of respondent No. 3 so that the transfer of the applicant will be effected and the order of posting of respondent No. 3 can be issued.

(x) It is the case of the applicant that the signature, which has been put on the representation dated 22.05.2023 is fabricated and manipulated. The applicant being a drawing and disbursing authority and his signature has been submitted to the Treasury Office for all the transactions on behalf of the office. The applicant submits that his signatures on the representations are bogus. The respondent No. 3 has got vested interest for his posting on promotion in place of the applicant. The respondent No. 1 should have initiated the action as per Section 463 to 465 of I.P.C.

4. Learned counsel for the applicant submits that on 22.05.2023 three representations in the name of the applicant came to be submitted for claiming the request transfer, but those representations were never submitted by the applicant. Learned counsel submits that in the meeting of the Civil Services Board dated 24.05.2023, 09 officers' names were included. Name of the applicant stands at Sr. No. 7 and out of these 09 officers, 05 Officers were considered for promotion on request and the applicant came to be transferred as Senior Research Officer, Caste Scrutiny Committee, Kinwat in place of one Shri Latkar.



5. Learned counsel for the applicant submits that on 17.07.2023, the interim relief was granted by this Tribunal by directing the parties to maintain status-quo and in view of the same, the applicant remained on the same post. However, by order dated 15.09.2023, the interim relief was vacated. Consequently, the applicant has approached the Hon'ble High Court of Bombay, Bench at Aurangabad by filing W.P. No. 11931/2023 and the interim relief was continued as per the directions given by the Hon'ble High Court.

6. Learned counsel for the applicant submits that the applicant has never given any representation for his transfer, however the representations have been utilized for the transfer of the applicant at the behest of somebody, who has got some vested interest. The applicant has not completed the normal tenure as prescribed in Section 03 of the Transfer Act, 2005.

7. Learned counsel for the applicant submits that the applicant was not due for transfer and he has hardly completed one and half year on the said post. He has not given any application on 22.05.2023 for request transfer. On the other hand, Crime No. 114/2018 under Section 420, 467, 468, 471 and 408, 409 of I.P.C. came to be registered against respondent

No. 3 and without following the procedure as contemplated under the G.Rs. dated 15.12.02017 and 30.08.2018 respectively, the promotion was granted to respondent No. 3. The respondent No. 3 has filed O.A. No. 139/2021 before this Tribunal for opening of sealed cover envelope, wherein his promotion was kept and the said O.A. is still pending. However even though the said O.A. is still pending, the respondent No. 3 has been granted promotion.

8. Learned counsel for the applicant submits that the applicant has not completed his normal tenure and in view of the same, he has to be continued on the same post till his tenure is completed. Learned counsel submits that the present Original Application deserves to be allowed in the above terms.

9. During pendency of the present Original Application, the applicant has submitted short affidavit and thereby brought to the notice of the Tribunal that the District Collector, Hingoli had submitted the name of the applicant as Zonal / Sector Officer for the Parliamentary Elections of 2024 and the name of the applicant is at Sr. No. 7 showing Khaparkheda as zone declared under the applicant's control and the applicant was sent for undergoing the training under the Sub-Divisional Officer,

Kalamuri, District Hingoli. The training period of the applicant has been started and since it is over, the examination will be conducted on 15.01.2024. All the appointments, which are made for showing Parliamentary Elections of 2024, are governed by the Representations of Peoples Act, 1951.

10. Learned Presenting Officer (for short P.O.) on the basis of affidavit in reply filed on behalf of respondent No. 1 and 2 and also their affidavit in reply filed after the amendment submits that the applicant vide letter dated 22.05.2023 submitted a representation seeking mid-term transfer to either the Tribal Research and Training Institute, Pune or to the Scheduled Tribe Caste Verification Committee, Gadchiroli or Scheduled Tribe Caste Verification Committee, Kinwat owing to his family difficulties. The Civil Services Board convened a meeting on 24.05.2023 to deliberate upon the periodic transfers, as well as, request transfers, whereby it was recommended that the case of the applicant shall be considered by the higher competent authority. Accordingly, the transfer request of the applicant has been considered and approved by the higher competent authority. Learned P.O. submits that subsequently the applicant has submitted a representation withdrawing his earlier request for transfer on the ground that the family

difficulty has been cured and the applicant has not completed the tenure on his present posting. The same was received by the Tribal Development Department on 01.06.2023.

11. Learned Presenting Officer submits that the Government servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. Learned Presenting Officer thus placed his reliance in a case of **Rajendra Singh and others Vs. State of UP and others, (2009) 15 SCC 178.**

12. Learned Presenting Officer submits that the request of the transfer made by the applicant had been forwarded for consideration of the higher competent authority in terms of the provisions of Transfer Act, 2005. Further the General Administration Department vide G.R. dated 11.02.2015 has laid down directives with respect to mid-term transfers. Similarly, G.R. dated 29.05.2015 issued by the General Administration Department states that with respect to Group-A employees, the mid-term transfers and transfers other than in the month of April/May shall be done with the approval of the higher competent authority. In terms of the aforesaid G.Rs. and in view

of the request of the applicant, mid-term transfer of the applicant has been accepted vide order dated 06.09.2021.

13. Learned Presenting Officer submits that the respondent No. 3 has been transferred for administrative purpose on careful consideration. The respondent No. 3 is requested to join the said post within 30 days of the order dated 11.07.2023. The applicant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place on the other. The applicant thus cannot seek modification of the transfer order of respondent No. 3. Learned Presenting Officer submits that the Original Application is filed mainly against the order dated 11.07.2023 issued by respondent No.1, whereby transfer of the respondent No. 3 has given effect. It is not thus appropriate on the part of the applicant to assail the order of respondent No. 3 in the absence of facts pointing out mala-fides, violation of legal provisions and prejudice.

14. Learned Presenting Officer submits that the transfer of the applicant in terms of his request letter dated 22.05.2023, which has been approved by the higher competent authority and as such, the Original Application filed by the applicant is devoid of merits.

15. Learned counsel for respondent No. 3 on the basis of affidavit in reply submits that the applicant has submitted the application dated 24.05.2023 and the respondent No. 3 had not knowledge about the family difficulties and the status of the education of daughter of the applicant. He has also no knowledge about the request / demand of the applicant to post him either at Pune or Kinwat, Dist. Hingoli. Even the respondent No. 3 has no knowledge about the withdrawal of any kind of first application dated 24.05.2023 and request for retention of the applicant at Kalamnuri. Learned counsel further submits that meeting of Civil Services Board was held on 24.05.2023 for effecting the ensuing transfers for the financial year 2023-24. Learned counsel submits that meeting of the Departmental Promotion Committee was held in the month of February and therefore, contentions of the applicant that it was held in the month of July are denied. Learned counsel submits that it is the part of the record of the office of the answering respondent Nos. 1 and 2 that the applicant had submitted his several applications for transferring / deputing him either at Pune, Gadchiroli or Kinwat. Learned counsel submits that request for applicant's transfer and the administrative transfer are two different things.

16. Learned counsel for respondent No. 3 submits that the respondent No. 3 has been meritorious and suitable officer for promotion and after the conscious decision of the Civil Services Board, as well as, the higher authorities, the respondent No. 3 is being posted at Kalamnuri, for which the applicant need not have any kind of objection. Learned counsel submits that the posting of respondent No. 3 on the promotional post at Kalamnuri is in consequence of the request application of the transfer submitted by the applicant. After considering the requirement and the request of the applicant, the Civil Services Board might have taken a conscious decision in the facts and circumstances of the case. Therefore, it cannot be said that the transfer order has been passed in violation of the Transfer Act, 2005. Learned counsel submits that there is no substance in the present Original Application and the same is liable to be dismissed.

17. Though the applicant has submitted rejoinder affidavit and sur-rejoinder by the other side, the same facts and grounds are repeated and therefore, may not be necessary to consider it again.

18. The applicant was initially appointed vide order dated 16.08.2011 as recommended by M.P.S.C. for the post of

Assistant Project Officer, Class-II, Integrated Tribal Development Project and was posted at Gadchiroli and also worked at various places. Thereafter, the applicant came to be promoted from the post of Assistant Project Officer, Class-II to the post of Project Officer, Class-I pursuant to the decision taken by the respondent No. 1 in the Departmental Promotion Committee Meeting and vide order dated 06.09.2021, the applicant was given posting as Project Officer, Class-I, Integrated Tribal Development Project at Kalamnuri.

19. It further appears that the General Transfers were to be effected for the year 2023-24 and according to the applicant, he had given representation on 24.05.2023 stating therein that due to family difficulties and the education of daughter, he may be given the posting at Tribal Development Research and Training Center, Pune or Scheduled Tribe Caste Verification Committee Office, Kinwat, District Nanded. According to the applicant, on the same day, however he has submitted an application for withdrawal of request application and stated therein that he may be retained on the same post and not to transfer him, as he has not completed the normal tenure. It is further admitted position that that the General Transfers of the year 2023-24 were to be effected on or before 30.05.2023 and in



terms of the G.R. dated 30.05.2023, the time has been extended for effecting the General Transfers till 30.06.2023. However, by order dated 11.07.2023, the respondent No. 3 came to be posted as Project Officer, Integrated Tribal Development Project, Kalamnuri, Dist. Hingoli showing the post to be fallen vacant after transfer of the applicant. It is the case of the applicant that in fact the said post at Kalamnuri was not vacant, as the applicant was working on the said post. The applicant is still holding the charge of the said post of Project Officer, Integrated Tribal Development Project, Kalamnuri, Dist. Hingoli and the order of posting of respondent No. 3 was not implanted due to the condition as stated in the order itself that the effect will be given to his transfer as and when the vacancy will arise due to transfer of the applicant.

20. The applicant has therefore carried out amendment as per the leave granted by this Tribunal vide order dated 15.09.2023. It is further case of the applicant that pursuant to the meeting of the Civil Services Board dated 24.05.2023, the transfer of the applicant is now effected from the post of Project Officer, Integrated Tribal Development Project, Kalamnuri to Senior Research Officer, Scheduled Tribe and Caste Scrutiny Committee, Kinwat in place of one Shri Pravin Latkar. It is also

stated in the said order that the procedure as contemplated under Section 4(5) of the Transfer Act, 2005 and approval of the superior officer is taken for the transfer of the applicant.

21. By way of the amendment it is the further case of the applicant that though the respondent authorities have stated that there were 03 representations dated 22.05.2023, which are annexed to the paper page at page Nos. 37 to 39, wherein the applicant has made request for his mid-term transfer either at Gadchiroli or Pune or Kinwat due to family problems, the applicant has never submitted the said applications dated 22.05.2023 to respondent No. 1 and also signatures thereon are bogus. According to the applicant, the said applications had been signed by the person, who interested in transfer of the applicant and further his posting in place of the applicant.

22. It is part of the record that the mid-term transfer of the applicant was recommended by the Civil Services Board on his request.

23. In the instant case, the peculiar and surprising facts are emerging. In terms of the pleadings of the Original Application, it is the case of the applicant that he has submitted representation for transfer on 24.05.2023 stating therein that

due to family difficulties and education of daughter, he may be given posting at (i) Tribal Research and Training Institute, Pune or (ii) Scheduled Tribe Caste Verification Committee, Gadchiroli or (iii) Scheduled Tribe Caste Verification Committee, Kinwat, District Nanded. It is further case of the applicant that he was submitted application for withdrawal of his first application on 24.05.2023 and stated therein that he may be retained on the said post, as he has not completed the normal tenure. The applicant annexed the copy of the said representation dated 24.05.2023 for retention at Annexure A-2. However, surprisingly, the applicant has not filed his copy of representation submitted by him with the respondent authorities seeking transfer on request on 03 placed as stated above, which is part of the pleading of the Original Application. The same is important in the backdrop of the affidavit in reply filed by the respondents.

24. It is the case of the respondent authorities that on 22.05.2023 itself, the applicant has submitted 03 representations, which are part of the record at page Nos. 37 to 39 of the paper book, wherein repeated request has been made by the applicant for his transfer on request at Pune, Gadchiroli and Kinwat due to family problems. The applicant appears to have taken a stand that those 03 representations dated

22.05.2023 had not been submitted by him and it does not bare his signature and those 03 representations are false and fabricated. Even the applicant has gone to the extent that the person, who is interested in joining at place of the applicant i.e. at Kalamnuri, had submitted those false and fabricated representations. It is not out of place to repeat here again that the applicant has not submitted the copy of his request representation / application allegedly filed by him on 24.05.2023 and simply filed a copy of application dated 24.05.2023 (Annexure A-2) on record to show that on the day of filing of the request representation itself i.e. on 24.05.2023 he has filed the withdrawal of his request on the same day as per Annexure A-2.

25. It further appears from the record and proceedings that the meeting of the Civil Services Board was held on 24.05.2023 and the transfers sought by the Class-I employees / officers from Tribal Development Department on request were considered. It further appears that the applicant came to be transferred as Project Officer, Tribal Development Project, Pusad along with 08 others employees on their request transfer, so also the other category of employees in the same department. However, the fresh proposal for request transfer was submitted, wherein the request of the applicant was considered and he has

been transferred on the post of Senior Research Officer, Kinwat on the place and post likely to be vacant due to transfer of one Shri Pravin Latkar. The said fresh proposal has been approved by the higher competent authority somewhere in the month of July, 2023. It further appears that this Tribunal has directed to maintain status-quo by order dated 17.07.2023 and in consequence thereof, the transfer order of the applicant was not issued. However, the respondent No. 3 came to be transferred on promotion and post of the applicant is shown vacant, as his transfer has been approved by the higher competent authority, though the order was not issued in compliance of the interim relief granted by this Tribunal on 17.07.2023.

26. It is part of the record that the applicant has filed Misc. Application No. 399/2023 for amendment in the Original Application to include certain prayers about minutes of the meeting of the Civil Services Board dated 24.05.2023 and modified order of respondent No. 3 dated 11.07.2023. Though this Tribunal by order dated 15.09.2023 has allowed the said amendment, however, on perusal of the record minutely, this Tribunal in para No. 13 has made the observations about the request application submitted by the applicant, which reads as under :-

*“13. After having gone through the file and the relevant documents on record, I am convinced that the applications were submitted by the present applicant. As I noted hereinabove, the applicant is at liberty to raise objections in that regard. It is up to the applicant and burden is also on the applicant to sufficiently prove his allegations. However, it may not be just and proper to continue the interim relief, which was granted on the circumstances recorded at the time of passing the interim order by me. As has been submitted by the learned P.O. only because the order of status-quo was in force the order of transfer pertaining to the applicant could not be issued.”*

In consequence of the perusal of the record, the Vice Chairman of this Bench has made the observations in para No. 13 as reproduced hereinabove and further vacated the interim relief on 17.07.2023.

It further appears that by order dated 26.09.2023 passed in W.P. No. 11931/2023, the Division Bench of the Hon'ble High Court of Bombay, Bench at Aurangabad has disposed of the said W.P. with the direction that the ad-interim order passed by the Tribunal on 17.07.2023 shall continue till 10.11.2023 or till the learned Tribunal decides the O.A. and all the litigating parties would address Tribunal by way of final hearing on 12.10.2023. Written notes of submissions would be kept ready and would be tendered on the same date and further directed this Tribunal to endeavor to deliver a judgment in the pending proceedings before

10.11.2023, if possible. It thus appears that the Division Bench of the Hon'ble High Court of Bombay, Bench at Aurangabad has not considered the merits of the case and further directed that litigating parties would address the Tribunal by way of final hearing along with written notes of arguments.

27. In view of the aforesaid factual aspects as discussed elaborately in foregoing paragraphs, I am also of the considered opinion that the applicant has changed his stand time to time without any basis. The applicant has not submitted the copy of his request application dated 24.05.2023 and on the other hand submitted a copy of his withdrawal of request application for retention on the same place dated 24.05.2023 to demonstrate that on the same day he has filed the application for retention (Annexure A-2). The applicant, however, denied his 03 repeated representations filed on 22.05.2023, which is part of the record submitted by the applicant at Annexure A-6 collectively (in M.A. No. 399/2023 seeking amendment) and also the respondent authorities. The applicant has gone to the extent by saying that those representations are false and fabricated representations. On the other hand, it is part of the record that on the basis of his request representation, the applicant's name was considered for transfer mid-tenure owing to his family problems and in the

meeting of the Civil Services Board, which was also coincidentally held on the same day i.e. on 24.05.2023, the applicant was given the place of transfer as Pusad, which has been subsequently corrected in terms of the fresh proposal submitted by the Department, wherein preference has been given to the choice given by the applicant about his place of choice and he has been given place of choice at Kinwat. It further appears that the applicant got annoyed because of transfer of respondent No. 3 on his place by way of promotion. In the original pleadings, it is not at all the case of the applicant that he has not submitted request representation and request representations submitted in his name on 22.05.2023 are the false and fabricated documents. On the other hand, it appears that the applicant has gone to the extent by saying that the respondent No. 3 was interested in joining the place, where the applicant is working and as such, he has manipulated the said false and fabricated representations dated 22.05.2023.

28. In my considered opinion, the applicant though holding Class-I post, has not approached the Tribunal with clean hands. He is also guilty of the suppression of material facts. It also appears that the applicant wants to settle his personal score with the respondent No. 3 for the reasons best known to him. It



is well settled that the Government servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. He is liable to be transferred in the administrative exigencies on one place to another place. In a case of **Rajendra Singh and others Vs. State of UP and others, (2009) 15 SCC 178**, the Hon'ble Supreme Court has made the following observations :-

*"...6. A Government Servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. He is liable to be transferred in the administrative exigencies from one place to the other. The transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contrary. No Government can function if the Government Servant insists that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires [see State of U.P. v. Gobardhan Lal; (2004) 11 SCC 402]."*

29. It is part of record that the respondent No. 3 was transferred on promotion and the Departmental Promotion Committee meeting was held in the month of June, 2023 and the promotions were to be effected for the post of Tribal Development Services, Group-A (Assistant Commissioner / Senior Research Officer / Project Officer Selection Grade-2) and the order of

transfer came to be issued of respondent No. 3 on 11.07.2023 in terms of the administrative exigencies to the post likely to be fallen vacant on account of transfer of the applicant from Kalamnuri in place of his choice as per his request representation.

30. In view of above discussions, the present Original Application is liable to be dismissed. In the circumstances, there shall be no order as to costs. Hence, the following order :-

**ORDER**

- (i) Original Application No. 621/2023 is hereby dismissed.
- (ii) In the circumstances, there shall be no order as to costs.
- (iii) O.A. stands disposed of accordingly.

**(Justice V.K. Jadhav)**  
**Member (J)**

31. At this juncture, learned counsel for the applicant submits that by interim order passed by the Tribunal, the applicant is protected since long and even though the said interim order was vacated under the orders of the Tribunal, the Hon'ble Bombay High Court, Bench at Aurangabad has directed to continue that interim order, while disposing of the Writ

Petition and further directed this Tribunal to dispose of the O.A. as expeditiously as possible.

32. Shri M.P. Gude, learned Presenting Officer appearing for respondent authorities and Shri R.N. Bharaswadkar, learned counsel appearing for respondent no. 3 have strongly opposed the aforesaid request of the learned counsel for the applicant.

33. This O.A. has been decided on merits. This Tribunal has observed that the applicant is guilty of suppression of material facts and he has not approached the Tribunal with clean hands. In view of the same, I am not inclined to continue the interim order. Request in this regard stands rejected.

**PLACE : Aurangabad.**  
**DATE : 14.02.2024**

**(Justice V.K. Jadhav)**  
**Member (J)**