

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD
ORIGINAL APPLICATION NO. 627 OF 2021
(Subject – Transfer)**

DISTRICT : NANDED

Dr. Ajay Sanjay Shivankar,)
Age : 37 years, Occu. : Live Stock)
Development Officer, Veterinary)
Dispensary Grade –I, Sarkhani,)
Taluka Kinwat Dist. Nanded.)
R/o SVS Colony Kinwat, Taluka Kinwat,))
District – Nanded.)

.. APPLICANT

V E R S U S

- 1) **The State of Maharashtra,**)
Through Principle Secretary,)
Animal Husbandry Dairy)
Development Department,)
Fisheries, Mantralaya,)
Mumbai – 400 032.)
- 2) **The Commissioner,**)
Animal Husbandry Government of)
Maharashtra, Pune-411 067.)
- 3) **The District Animal Husbandry)
Officer,** Zilla Parishad, Nanded.)

.. RESPONDENTS

APPEARANCE : Shri Asif Ali, Advocate holding for Smt. A.N.
Ansari, Advocate for the Applicant.

: Shri S.K. Shirse, Presenting Officer for
Respondents.

CORAM : **SHRI BIJAY KUMAR, MEMBER (A).**

DATE : **25.10.2021.**

ORDER

1. The Original Application No. 627 of 2021 has been filed by the applicant Dr. Ajay Sanjay Shivankar on 11.10.2021 for seeking relief against the impugned Government order No. पसंप्र-२०२१ /प्र.क. १३८/ पदुम-१ dated 09.08.2021 transferring him from the post of Live Stock Development Officer, Veterinary Dispensary Grade-I, Sarkhani, Taluka Kinwat, District Nanded to the post of Live Stock Development Officer, Veterinary Dispensary Grade-I, Mukhed, Taluka Mukhed, District Nanded.

2. The applicant had made representation against the impugned order on 28.09.2021, which was received by the respondents on 04.10.2021. The applicant considered it fit to file this Original Application as the only efficacious alternative remedy available to him, within a week of filing his representation to the Principle Secretary, Department of Animal Husbandry, Dairy Development & Fisheries, Government of Maharashtra, who is the respondent No. 1 in the present Original Application.

3. Background facts- The background fact of this case may be briefly put as follows-

(a) That, after his appointment as Live Stock Development Officer on 29.06.2013 the original applicant had joined as Livestock Development Officer at Veterinary Dispensary Grade-I, Lambori, Taluka Jiwatee, District Chandrapur on 16.07.2013,

(b) From the back-references mentioned in a document marked as Annexure A-2, (page No. 22 of paper book), which is a copy of a Corrigendum dated 10.10.2017 issued by the Project Director, District Rural Development Agency, Nanded, it is revealed that the applicant had been transferred from the Veterinary Dispensary Grade-I, Lambori, Taluka Jiwatee, District Chandrapur to Nanded district by order No. पसंप्र/-२०१६ /प्र.क. ३४५/ पदुम-१/ कृषी, पशुसंवर्धन, दुग्धव्यवसाय विकास व मत्स्य व्यवसाय विभाग मुंबई -३२ dated 31.05.2017. However, the applicant has not mentioned his exact place of posting in Nanded district vide the said order. However, from the contents of the said Corrigendum dated 10.10.2017, it appears that the original applicant's request for his posting as Live Stock Development Officer, Veterinary Dispensary Grade-I, Sarkhani, Taluka Kinwat, District Nanded was accepted by the Project Director, District Rural Development Agency, Nanded, who issued

the Corrigendum by exercising powers delegated to him by the Chief Executive Officer, Zilla Parishad, Nanded.

(c) From the document marked as Annexure A-7 (Page No. 37 of paper book), which is a copy of Government Resolution No. पसं-२०१५/प्र.क. ११२/ पदम-१ dated 10.09.2015 it is evident that one Dr. Swapna Bhojraj Sarpe was posted at Veterinary Dispensary Grade-1, Kanki, Tq. Kinwat, Dist. Nanded as her first posting after her appointment as Live Stock Development Officer. The Original Applicant has introduced Dr. Swapna Bhojraj Sarpe as his wife in para No. 3 of the O.A. At present Dr. Swapna Bhojraj Sarpe is working as Live Stock Development Officer at Veterinary Dispensary Grade-I at Khambala, Taluka Kinwat District Nanded.

(d) It is a matter of record that vide Government Resolution No. टिएफपी-१०२६/८७१०/प्र.क.३१/का-५, dated 01.03.1990, issued by Tribal Development Department, Maharashtra, Kinwat Taluka of Nanded district has been notified as "Partially Tribal Sub Plan Area".

(e) The applicant had given names of four veterinary service centers, all in Nanded district only, as his choices

for consideration for his transfer vide his application dated 07.07.2021, none of which were considered by the transferring authority.

4. Reliefs prayed for by the present applicant in terms of para 9 of this Original Application are as follows:-

“(A) To admit and allow this Original Application.

(B) The Respondents be directed to decide the representation given by the Applicant dated 28.09.2021 received by Respondents on 04.10.2021.

(C) The Respondents be directed to continue the applicant on the post of LDO VD (Gr-I), Sarkhani, Taluka Kinwat, District Nanded, which is vacant at present.

(D) Any other relief to which the applicant is entitled may kindly be granted.”

5. Interim relief prayed for by the applicant in terms of para 10 of the Original Application are as follows:-

“(A) The Respondents be restrained from filling the post of LDO VD (Gr-I) Sarkhani, Taluka Kinwat, District Nanded.

(B) Any other relief to which the applicant is entitled may kindly be granted.”

6. Grounds for seeking relief prayed for have been listed by the present applicant in para 6(14) of the Original Application, which are reproduced below:-

- I. At the outset it is a matter of record that since the date of appointment in 2013 till his transfer order dated 9.8.2021 the applicant has served in Tribal areas.*
- II. For a long period of 7 years the applicant has served in Tribal Areas and applicant is entitled for facilities and benefits given by Government in Government Resolution dated 11.07.2000.*
- III. As per Government Resolution dated 11.07.2000 the Government servant who has served in Tribal area for a period of 2 years is entitled to be posted at the place of his choice.*
- IV. At the time of general transfer order of the year 2021 the applicant has given 4 places of choice vide application 07.07.2021.*
- V. The places of choice given by the applicant were vacant at the relevant time when applicant had given place of choice i.e. in the month of July 2021.*
- VI. One place of his choice of Nanded as Extension Officer, Panchayat Samiti, Nanded was vacant even after passing of general transfer order*

09.08.2021 and same is filled-in after the modified/request order dated 27.09.2021.

- VII. In view of general transfer order 09.08.2021, it requires consideration that nobody is posted in place of the applicant and the applicant is relieved after a month i.e. on 07.09.2021.
- VIII. It requires consideration that the places of choice given by applicant is not considered at the time of passing modified/request transfer order dated 27.09.2021. One of the places of choice of applicant was very much vacant at the time of general transfer order as well as at the time of modified/request transfer and by considering the place of choices of applicant he would have been given the post at Nanded as Extension Officer, Panchayat Samiti, Nanded. The applicant does not know the reasons for not giving the same to the applicant.
- IX. After modified/request transfer orders are passed, when the post on which the applicant is serving is not filled in, the applicant has made representation dated 09.08.2021, he may be continue on the same post till the next general transfer May 2022.
- X. Even if place of choices given by the applicant is not given to him at present at least he could be continued on present posting as same is vacant,

nobody is transferred and posted till the next general transfer order.

XI. The place where applicant is transferred is at a long distance of 260 kms from where wife of applicant is serving at Kinwat, and living with small kinds and old aged parents.

XII. While passing the general transfer order 09.08.2021 and modified/request transfer order 27.09.2021 the respondents have not taken in to consideration Government Resolution 11.07.2000, which has frustrated the very gist of the Government policy and being carried an adverse impression, which is required to be deprecated.”

7. The matter was heard at the stage of admission on 12.10.2021 and thereafter it was reserved for order.

8. Analysis of facts:-

(a) It is a matter of record that after transfer from Chandrapur district in to Nanded district vide order dated 31.05.2017, the applicant joined in Nanded district on 03.10.2017 with a request for posting in Kinwat Taluka, which falls under “Partially Tribal Sub Plan Area”. His request was accepted by authorities and suitably modified order was issued on 10.10.2017 posting the applicant at

Veterinary Dispensary Grade-I at Sarkhani, Taluka Kinwat. Therefore, tenure of the applicant in tribal area has been of about 3 years & 9 months as on date of submission of his application for choice posting dated 07.07.2021.

(b) It is also a matter of record that the Original applicant had initially opted for posting at Kinwat Taluka, accordingly Corrigendum to his original transfer order had been issued on 10.10.2012.

(c) It is also a matter of record that the applicant has completed his tenure at Veterinary Dispensary Grade-1, Taluka Kinwat, and as such he is due for transfer.

(d) It is also a fact that wife of the original applicant is also posted at Veterinary Dispensary Grade-I Kinwat in Taluka Kinwat vide order dated 10.09.2015 and at present she is posted at Veterinary Dispensary Grade-I, Khambala, Taluka Kinwat, but during last 6 years of her tenure in Kinwat Taluka, any further details of breakup of tenure at Veterinary Dispensary Grade-1, Kanki and later on at Khambala have not been disclosed by the applicant in this O.A.. Therefore, it is not possible to understand whether the wife of the original applicant is due for transfer under

administrative ground or not. It is also not clear whether she is willing for transfer to Mukhed or not.

(e) From the 4 choices of posting given by the original applicant, it can be inferred that the applicant is comfortable if he is posted at Taluka Ardhapur or at Taluka Nanded, even if his family is continued at Taluka Kinwat. Moreover, he has given names of four veterinary service centers, all in only Nanded District as his choice, whereas the applicant was required to indicate names of 3 Districts of his choice as per the provisions of clause 2(क) of G.R. dated 11.07.2000.

(f) It is also evident from the notification of Tribal Areas that the applicant was not posted in a notified tribal area in Chandrapur District.

(g) It is evident from the contents of the application dated 07.07.2021 submitted by the original applicant to the Principle Secretary, Department of Animal Husbandry and Dairy Development, Fisheries, Government of Maharashtra indicating his family needs and choices of postings that he had not disclosed that his wife too was posted as Livestock Development Officer, in another Veterinary Dispensary in

Kinwat Taluka only. Therefore, it may be inferred that the applicant has raised the issue of inconvenience of family by posting of husband and wife at distant places, by way of afterthought.

9. Conclusion :- The original applicant has completed his normal tenure at Veterinary Dispensary Grade-I, Sarkhani, Taluka Kinwat, District Nanded and therefore, he is eligible for posting at one of the three districts of his choice. However, he has indicated name of only Nanded district for his next posting whereas he is already posted in the same district. As the applicant is a Class-I officer of State Cadre, he is expected to comply with the condition of giving choices of three districts. The applicant had got his posting order modified for getting posted at Veterinary Dispensary Grade-I, Sarkhani, Taluka Kinwat, District Nanded and he has not disclosed the place of his posting before issuance of Corrigendum. Moreover, the original applicant who is a Class-I officer, has not disclosed, while indicating his three choices for posting vide his application dated 07.07.2021 that his wife too was posted since September 2015 in Kinwat Taluka and transfer of the two could be considered together so that convenience of family could be considered by the transferring authority. The last but not the least, the original applicant

appears to be comfortable with his transfer to Nanded district Head Quarter or Ardhapur Taluka, even if his family continues to be at Taluka Kinwat. Therefore, in my considered opinion, this O.A. is not fit for granting relief prayed for and I therefore, pass following order:-

ORDER

The Original Application No. 627/2021 is partly allowed in following terms:-

- (A) The Original Applicant should indicate names of three Districts for his posting under provisions of para 2 (क) of the Government Resolution of General Administration Department bearing No. टीआरएफ-२०००/एम/८/प्र.क.३/बारा Mantralaya Mumbai dated 11.07.2000.
- (B) In case, the spouse of the original applicant is also willing to be considered for transfer on the ground of spouse being together, the same may be also indicated accompanied by application of his wife, to that effect.
- (C) The transferring authority, upon receiving representation as per clause (A) and (B) above, may take steps as per the provisions of para 4 of the Government Resolution of General Administration Department bearing No. टीआरएफ-२०००/एम/८/प्र.क.३/बारा

Mantralaya Mumbai dated 11.07.2000 and as far as possible, to complete the action stipulated therein on merit of the case during the next General Transfers of the year 2022 or before, if mid-season transfers are under consideration as per the policy of the government.

(D) No order as to costs.

PLACE : AURANGABAD.
DATE : 25.10.2021.

(BIJAY KUMAR)
MEMBER (A)

KPB S.B. O.A. No. 627 of 2021 BK 2021 Transfer