

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.637 OF 2018

DISTRICT:- AHMEDNAGAR

Shri Alkesh s/o. Natthu Patil,
Age : 36 years, Occ. Service (as Craft Instructor),
R/o: D-101, Fortune Avenue,
Near Nashik Cambridge School,
Indira Nagar, Nashik,
Tq. & Dist. Nashik.

...APPLICANT

V E R S U S

1. The State of Maharashtra,
Through its Secretary,
Higher and Technical Education,
Mantralaya, Mumbai – 400 032.
2. The Secretary,
Skill Development and Entrepreneurship Department,
Mantralaya Extension Bhavan,
Madam Cama Road,
Hutatma Rajguru Chowk, Mumbai-32.
3. The Director,
Directorate of Vocational Education and Training,
3, Corporation Road, Post Box No.10036,
Mumbai – 400 001.
4. The Joint Director,
Vocational Education and Training,
Regional Office, Nashik-2.
5. The Joint Director,
Vocational Education and Training,
Regional Office, Ghole Road,
Pune - 411 005.

.... RESPONDENTS

APPEARANCE :Shri M.S.Sonwane, Advocate for the
Applicant.

:Shri M.P.Gude, Presenting Officer for the
respondents.

CORAM : JUSTICE A.H.JOSHI, CHAIRMAN

Reserved on : 25-02-2019
Pronounced on : 28-02-2019

ORDER:

1. Heard Shri M.S.Sonwane learned Advocate for the applicant and Shri M.P.Gude learned Presenting Officer for the respondents. Perused the record.
2. By this O.A., the applicant has prayed for following relief:

“B) By way of appropriate O.A., order or directions in the like nature, the Hon’ble Tribunal may kindly direct the respondent authorities to transfer the applicant at Government Industrial Training Institute, SCP, Nashik, District Nashik, as per the Government Circular dated 15/12/2004 and as per the Circular dated 10/04/2017 issued by the respondent No.3.

C) By way of appropriate O.A., order or directions in the like nature, the Hon’ble Tribunal may kindly direct the respondent no.4 to consider and decide the application dated 23/03/2018 alongwith Schedule - I, application dated 26/06/2018 and 28/06/2018 made by the applicant for request transfer, as per the Government Circular dated 15/12/2004 and as per

the Circular dated 10/04/2017 issued by the respondent No.3.”

(Quoted from paper book page 10)

3. Foundation of the applicant's prayer is the Government decisions dated 15-12-2004 and 10-04-2017. Averments in this regard contained in the O.A. read as follows:

“17. The applicant states that, the applicant has completed more than 5 ½ years of service at Karjat, Tq. Karjat, District Ahmednagar. As per the conditions, the employee can make a request for transfer after completion of 1 year service at the current posting. So also, as per the Government Circular dated 15/12/2004 and the Circular dated 10/04/2017 has specifically stipulates that, the preference should be given to the disabled persons by giving the posting near their residential places. However, the respondent authorities neither considering the requests made by the applicant every year nor giving the posting as per his choice or near his residence.”

(Quoted from paper book page 8)

4. Respondents' reply to applicants claim is in the nature of passive response, as under;

“21. As regards to para no. VI(17) of the original application, I say and submit that, as stated in above paras, Respondent authority has full

sympathy towards the applicant due to his physical disability. But, as the posts of COPA instructors were not lying vacant at the places requested by applicant for his transfer, the applicant was not transferred as per his choice. It doesn't mean that, respondent authority had not considering the request made by the applicant."

(Quoted from paper book page 81)

5. The nature of defence of the State appears to be half-hearted in the sense that object of the policy decision of the Government to accommodate and encourage handicap persons is dealt with by the respondents with total lack of empathy rather with complete apathy.

6. Therefore, it should suffice to direct the respondents that as and when vacancy in relation to which the applicant has prayed for arises, namely:

- (i) Govt. ITI Nashik (Satpur),
- (ii) Govt. Women's ITI, Nashik, or
- (iii) Govt. ITI Dindori; applicant's claim for posting at either amongst those three establishments be considered on priority basis.

7. It is also considered necessary to direct that as and when vacancy at either of 3 places referred to in foregoing paragraph 6 as seen from applicant's request application at

paper book page 28-29, those vacancies should not be filled in without disposing and deciding the applicant's request.

8. Needless to observe that due care should be taken while deciding applicant's letter of request to ensure due sympathy and empathy towards applicant's difficulties since applicant and his wife both are physically handicap.

9. Learned P.O. is directed to communicate this order apart from routine communication with further direction that the competent authority should issue standing directions to the subordinates to put up and process applicant's proposal for transfer without fail in the ensuing transfer season if an opportunity to fill either of those vacancies is available before due transfer season.

10. Original Application is partly allowed and disposed of in terms of direction contained in foregoing paragraph nos.7 to 9.

11. Parties are directed to bear their own costs.

(A.H.JOSHI)
CHAIRMAN

Place : Aurangabad

Date : 28-02-2019.