

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

ORIGINAL APPLICATION NO. 722 OF 2023

DISTRICT : AURANGABAD

Aparna w/o Abhijit Suryawanshi,)
Age : 37 years, Occu. Service as Govt.,)
Probation Officer Savitribai Woman's)
State Home Aurangabad, Nutan Colony,)
District-Aurangabad-431001.)

.... **APPLICANT**

V E R S U S

1. The Commissioner,)
Women and Child Development,)
Commissionerate (Maharashtra State),)
28, Ranich Bag, Next to Old Circuit)
House, Pune-2.)

2. The District Women and Child)
Development Officer,)
Aurangabad, Plot No. 9, Shri Jadhav)
Building, Khokadpura, Aurangabad.)

3. The Superintendent Govt. Woman's,)
State Home, Aurangabad,)
Golatgankar's Building, Nutan Colony,)
Aurangabad, Dist. Aurangabad.)

... **RESPONDENTS**

APPEARANCE : Shri Ashish Rajkar, Counsel for Applicants.

: Shri M.S. Mahajan, Chief Presenting Officer for
respondent authorities.

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

DATE : 22.01.2024

ORAL - ORDER

1. Heard Shri Ashish Rajkar, learned counsel appearing for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer appearing for respondent authorities.

2. The present Original Application is disposed of with the consent of parties at the admission stage.

3. By filing the present Original Application, the applicant is challenging the impugned transfer order dated 28.07.2023 issued by respondent No. 1, thereby transferring the applicant from her present posting at Aurangabad to Mumbai on request. The applicant is also seeking directions to respondent No. 1 to decide her representation dated 31.07.2023 forthwith.

4. Facts in brief as stated by the applicant giving rise to the Original Application are as follows :-

(i) The applicant entered into the service as Probation Officer on 10.12.2012 and she was posted at Aurangabad on 23.10.2020 under respondent No. 3.

(ii) It is the case of the applicant that on 28.05.2023 since the husband of the applicant was working at Mumbai, the applicant has submitted request application

to transfer her at Mumbai. She was hopeful that the respondent No. 1 will consider her request sympathetically and transfer her at Mumbai. However, the Government has taken a policy decision to extend the General Transfer period till 30.06.2023.

(iii) It is further case of the applicant that meanwhile she had admitted her daughter in 11th class at APIUS Academy Aurangabad for current academic year 2023-24 by paying annual admission fees of Rs. 90,000/-, as the applicant thought that her request for transfer at Mumbai has not been considered. However, the respondent No. 1 issued impugned transfer order on 28.07.2023, thereby transferring the applicant from her present posting at Aurangabad to Mumbai.

(iv) It is further case of the applicant that thereafter she has filed detailed representation dated 31.07.2023 to respondent No. 1 and requested to cancel request transfer order dated 28.07.2023 owing to the family difficulties. The applicant has also mentioned in her representation that her father-in-law is suffering from Cancer and he is undergoing the treatment at Aurangabad in addition to her daughter's

admission meanwhile in 11th class for academic year 2023-24. However, the respondent No. 1 has not taken any decision on the representation made by the applicant. Hence, the present Original Application.

5. Learned counsel for the applicant submits that respondent No. 1 has failed to consider the fact that the General Transfers period is over in the month of June 2023 and meanwhile, the daughter of the applicant has been given admission in 11th class at Aurangabad by paying substantial educational fees. Though the applicant has made detailed representation dated 31.07.2023 for cancellation of her request transfer order dated 28.07.2023 on the aforesaid grounds and even though the respondent No. 2 also recommended the same, the respondent No. 1 has not taken any decision on the same.

6. Learned counsel for the applicant submits that so far as the request transfer order dated 28.07.2023 is concerned, though the applicant came to be relieved from Aurangabad, meanwhile, one Smt. Kalpana Kambait came to be posted as Probation Officer at Government Nav Jeevan Mahila Vastigruha, Mumbai, as earlier she was working on deputation on different places and now the respondent No. 1 has cancelled the

deputation by order dated 18.07.2023 and as such, there is no vacancy at Mumbai so far as the place of transfer and posting of the applicant is concerned.

7. On the basis of affidavit in reply filed on behalf of respondent Nos. 1 to 3, learned Chief Presenting Officer submits that the transfer order dated 28.07.2023 has been issued as per the request application of the applicant dated 28.05.2023. The applicant came to be transferred to Government Navjeevan Mahila Vasatigruh, Mumbai. Learned C.P.O. submits that the General Administration Department vide its G.R. dated 30.05.2023 has extended the period of General Transfers from 31.05.2023 to 30.06.2023. Initially the applicant was not transferred at Mumbai in the month of June, 2023, as the applicant was working at Aurangabad from 23.10.2020 and her tenure of three years was not completed till then. However, meanwhile as per order passed by the Maharashtra State Human Rights Commission, Mumbai, dated 10.07.2023, it was necessary to fill up the vacant posts in Government Navjeevan Mahila Vsatigruh, Mumbai. In view of the same, as per approval of the Government, the applicant has been transferred from Aurangabad to Mumbai vide commissionerate order dated 28.07.2023.

8. Learned Chief Presenting Officer submits that through the applicant has made detailed representation dated 31.07.2023 to respondent No. 1 for cancellation of her previous request application dated 28.05.2023, she has not specifically stated to cancel her previous request transfer order dated 28.07.2023.

9. Learned Chief Presenting Officer submits that after issuance of the transfer order dated 28.07.2023, the applicant has been relieved on 24.08.2023 from Aurangabad. However, the applicant has yet not joined at her transferred place at Mumbai. Consequently show cause notice was given to the applicant asking for the explanation as to why the action should not be taken against her. Learned C.P.O. submits that it is for the Government servant to report the place of posting and then approach the Tribunal to ventilate his / her grievance. It is his/her duty to first report for work where he is transferred and make a representation as to what may be his personal problems.

10. Learned counsel for the applicant on the basis of rejoinder affidavit filed by the applicant submits that though the applicant was relieved on 28.08.2023 from Aurangabad, however she was on medical leave and therefore, could not join at the

place of transfer. Further there is no vacancy at the place of transfer, since one Smt. Kalpana Kambait, Probation Officer is working there at Government Nav Jeevan Mahila Vastigruha, Mumbai. Previously she was on deputation on different places, but the respondent No. 1 has cancelled her deputation by order dated 18.07.2023.

11. It appears that though the applicant came to be transferred on the basis of her request application dated 28.05.2023, however the General Transfers period of the said year came to be extended by the Government and it was extended till June, 2023. Meanwhile, it appears that the applicant has given admission to her daughter in 11th Std. at Aurangabad. It is needless to say that the admission for 11th Std. at a particular place has to be done at the earliest in the scheduled period and not beyond that. Moreover, the father-in-law of the applicant is suffering from Cancer and he is undergoing the treatment at Aurangabad. In view of this, it is very difficult for the applicant to join at Mumbai. Further there are certain difficulties in joining at Mumbai of the given post, though the applicant came to be relieved from Aurangabad.

12. In terms of the oral directions given by this Tribunal, learned Chief Presenting Officer has taken instructions in writing

and submitted a copy of communication dated 19.01.2024 before this Tribunal. On careful perusal of the same, it appears that the post held by the applicant at Aurangabad is still vacant. Thus considering the difficulties faced by the applicant and considering the fact that the applicant is woman staying alone at Aurangabad along with her daughter and father-in-law, who is suffering from cancer, I am inclined to allow the present Original Application.

13. It is not out of place to mention here that the applicant came to be transferred mid-tenure on her request, so also on the basis of order passed by the Maharashtra State Human Rights Commission, Mumbai. Thus considering entire aspect of the matter, since the post held by the applicant at Aurangabad is vacant and the transferred place at Mumbai is already occupied by another Probation Officer, the applicant can be retransferred / reposted at Aurangabad with the further directions to the respondents that they shall not transfer her again in the Annual General Transfers of the year 2024, for the reason that she has completed her tenure. Hence, the following order :-

ORDER

- (i) The Original Application No. 722/2023 is hereby allowed.
- (ii) The impugned transfer order dated 28.07.2023 issued by respondent No. 1 is hereby quashed and set aside.
- (iii) The respondent No. 1 is directed to retransfer / repost the applicant at Aurangabad within a period of four weeks from the date of this order.
- (iv) In the circumstances, there shall be no order as to costs.
- (v) The Original Application accordingly disposed of.

PLACE : Aurangabad.

DATE : 22.01.2024

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

KPB S.B. O.A. No. 722 of 2023 VKJ Transfer