

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

**ORIGINAL APPLICATION NO. 731 OF 2019  
(Subject – Transfer / Posting)**

**DISTRICT : BEED**

**Bhalchandra S/o Haribhau Bangar,** )  
Age : 47 years, Occu. : Service )  
(As Social Service Superintendent), )  
R/o. Plot No. 22, Sidhivinayaknagar, )  
Opp. Cambridge School, Sunderwadi, )  
Jalna Road, Aurangabad. )  
At present : O/o Swami Ramanand Tirth )  
Govt. Medical College, Ambajogai, Dist. Beed.).... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through its Secretary, )  
Medical Education and Drugs )  
Department, Mantralaya, Mumbai-32.)
2. **The Director,** )  
Medical Education and Research, )  
Govt. Dental College & Hospital, )  
4<sup>th</sup> Floor, St. George's Hospital )  
Area, P.D'Mello Road, Fort, Mumbai-1.)
3. **The Dean,** )  
Swami Ramanad Thirth Rural Govt.)  
Medical College & Hospital, )  
Ambajogai, Dist. Beed. ) **...RESPONDENTS**

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**APPEARANCE** : Ms. Preeti Wankhade, Advocate for the  
Applicant.

: Shri B.S. Deokar, Presenting Officer for  
Respondents.

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**CORAM** : **SHRI V.D. DONGRE, MEMBER (J).**

**DATE** : **29.07.2022.**  
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**ORDER**

1. By invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, the present Original Application is filed seeking direction to the respondent No. 2 i.e. the Director, Medical Education and Research, Mumbai to consider the request applications of the applicant dated 07.01.2018 & 04.04.2018 (Annexure A-5 collectively) and issue necessary order of transferring and posting the applicant on the post of Social Service Superintendent at Aurangabad by giving him benefit of Circular dated 15.12.2004 (Annexure A-4).

2. The facts in brief giving rise to this original application can be stated as follows :-

(a) Initially the applicant entered into the service of the respondent No. 1 i.e. the State of Maharashtra on the post of Social Service Superintendent on 12.04.2001. The applicant is physically disabled person suffering from physical impairment of his left leg to the extent of 64% in terms of disability certificate (annexure A-1). After his initial posting at Miraj and J.J. Hospital in Mumbai, the applicant was transferred to Aurangabad on his request on 02.11.2001. Since then he was working at Aurangabad till

2017. In the general transfers of the year 2017, he was not transferred, but subsequently by the order dated 15.06.2017 (Annexure A-2) issued by the respondent No. 2, thereby he was transferred from Aurangabad to Ambajogai in place of one Shri Satyajit S/o Indrajit Gaysamudre, who was working at Ambajogai since about June 2016. In fact, by the said transfer order dated 15.06.2017 (Annexure A-2), some of the Government servants in the cadre of Group-C were transferred on request and mutual consent. The transfer order of the applicant was issued only on administrative ground. In view of the same, injustice is being caused to the applicant and that time, it was not considered the applicant is a physically disabled person and while effecting transfer, norms of the G.R. dated 15.12.2004 (Annexure A-4) were required to be considered. However, without considering the same, the order of transfer of the applicant is effected. The applicant is not specifically challenging his transfer order. However, after issuance of the said order of transfer dated 15.06.2017 (Annexure A-2), the applicant made representations dated 07.01.2018 and 04.04.2018 (Annexure A-5 collectively) to the respondent No. 2 seeking to accommodate him at

Aurangabad in view of his disability, as well as, illness of his old aged mother and that his daughter was prosecuting studies in 12<sup>th</sup> Std. at Aurangabad and his family is living at Aurangabad. The respondent No. 2 did not consider the said representations. Hence, the present Original Application.

3. The Original Application is resisted by the respondent Nos. 1 to 3 by filing affidavit in reply of one Dr. Rajendra S/o Tulshiram Ankushe, working as Professor and Head, Department of Community Medicine, in the office of Dean, Swami Ramanand Theerth Rural Government Medical College and Hospital, Ambajogai, Dist. Beed i.e. the respondent No. 3, thereby he denied all the adverse contentions raised in the Original Application. It is specifically submitted that already sympathetic view is taken in respect of the applicant by accommodating him for many years at Aurangabad. It is specifically contended that the applicant had completed two years of service at Aurangabad and therefore, his transfer order is issued by taking requisite approval. At present, there is no vacant post of Social Service Superintendent at Aurangabad and therefore, his name could not be recommended to the Government for the same. It is further submitted that the fresh proposal in case of the applicant will be

prepared with the approval of the Civil Services Board and will be submitted to the respondent No. 1, which is possible in the next year's general transfer. It is further submitted that the applicant's disability certificate is issued only on 16.01.2014 and he was not appointed as Physically Handicapped candidate. It is further submitted that the applicant was working for around 17 years at a single place at Aurangabad. Therefore, he was eligible for transfer in place of Shri Satyajeeet Indrajeet Gaisamudre, who was working Ambajogai and on his request he was transferred at Aurangabad. In view of the same, the representations made by the applicant are totally misplaced and misconceived. The applicant did not produce any documents supporting his other contentions raised in the application about illness of his mother and daughter studying in 12<sup>th</sup> Std.. That apart, the respondents will prepare the fresh proposal with the approval of the Civil Services Board and will be submitted to the respondent No. 1. Hence, the present Original Application is liable to be dismissed.

4. Further rejoinder affidavit on behalf of the applicant and sur-rejoinder on behalf of respondent Nos. 1 to 3 are placed on record denying each other's adverse contentions and reiterating their respective contentions.

5. I have heard the arguments advanced at length by Ms. Preeti Wankhade, learned Advocate for the applicant on one hand and Shri B.S. Deokar, learned Presenting Officer for the respondents on the other hand.

6. Perusal of the pleadings and documents on record would show that the applicant is not changing his transfer order dated 15.06.2017 (Annexure A-2) or Shri Satyajeet Indrajeet Gaisamudre, who was posted in his place at Aurangabad. He is seeking direction to the respondent No. 2 i.e. the Director, Medical Education and Research, Mumbai to consider his request applications dated 07.01.2018 & 04.04.2018 (Annexure A-5 collectively) and to issue necessary order of transferring and posting him on the post of Social Service Superintendent at Aurangabad by giving him benefit of Circular dated 15.12.2004 (Annexure A-4).

7. Perusal of the Circular dated 15.12.2004 (Annexure A-4) would show that it is thereby provided that while transferring such physically disabled Government servant suffering with permanent disability, should be considered for posting near their residential place and keeping in mind the administrative convenience.

8. It is not known as to whether before transferring the applicant, options were called for. That apart, the Circular dated 15.12.2004 (Annexure A-4) would mandate to consider the Government servants suffering with permanent disability to accommodate them near residential place.

9. Perusal of the affidavit in reply particularly would show that the respondent No. 2 has principally agreed to submit the proposal to the respondent No. 1 for accommodating the applicant at Aurangabad by placing the matter for approval before the Civil Services Board. That can be done by taking into consideration the availability of vacant post of Social Service Superintendent at Aurangabad and administrative convenience. In these circumstances, without going into merit of the detailed contentions raised by the applicant, the present O.A. can be disposed of by giving suitable direction to the respondent No. 2. I therefore, proceed to pass following order :-

**ORDER**

The Original Application No. 731/2019 stands disposed of by giving following directions :-

- (A) The respondent No. 2 i.e. the Director, Medical Education and Research, Mumbai is directed to

consider the request applications of the applicant dated 07.01.2018 & 04.04.2018 (Annexure A-5 collectively) and to submit the proposal for transfer of the applicant to the Civil Service Board and thereafter, forward the same to the respondent No. 1 State Government for approval, as soon as vacancy of the post of Social Service Superintendent arises at Aurangabad by giving benefit of Circular dated 15.12.2004 (Annexure A-4) and by taking into consideration the administrative convenience at the earliest.

(B) There shall be no order as to costs.

**PLACE : AURANGABAD.**  
**DATE : 29.07.2022.**

**(V.D. DONGRE)**  
**MEMBER (J)**

**KPB** S.B. O.A. No. 731 of 2019 VDD Transfer / posting