

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 717 OF 2018

DIST. : PARBHANI

Vidya Pandurang Shinde,)
Age. 39 years, Occ. Tahsildar)
(Revenue Department))
presently posted at Collector Office,)
Parbhani, R/o Laxmi-narayan Niwas,)
Vasmat Road, Parbhani.)--

APPLICANT

VERSUS

1. The State of Maharashtra,)
Through Principal Secretary,)
Revenue Department, Mantralaya,))
Mumbai – 32.)

2. The Assistant Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai – 32.)

3. The Collector, Collector Office,)
Parbhani.)--

RESPONDENTS

APPEARANCE :- Smt. Amruta Paranjape-Menezes, learned
Advocate for the applicant.

: Shri M.S. Mahajan, learned Chief
Presenting Officer for the respondents.

CORAM : JUSTICE A.H. JOSHI, CHAIRMAN

RESERVED ON : 3.5.2019

PRONOUNCED ON : 6.5.2019

JUDGMENT

1. Heard Smt. Amruta Paranjape-Menezes, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. By filing the present Original Applicant the applicant has approached this Tribunal for challenging the transfer order dated 23.8.2018 issued by the res. no. 2 by which she is transferred from the post of Tahsildar Revenue, Parbhani to the post of Assistant District Supply Officer, Hingolli.

3. The transfer is challenged on the grounds that it is midterm transfer and is issued without consulting the Civil Services Board. The averments in that regard are averred in ground nos. para III and IV, which read thus :-

“(III) That, whether it is justified on the part of the Respondent no. 2 to pass mid-term transfer order without mentioning the existence of exceptional circumstances and special reasons for passing the impugned order.

(IV) That, whether it is justified on the part of Respondent no. 2 to pass mid-term transfers order of the applicant without obtaining the mandatory recommendation of Civil Service Board.”

(quoted from page 16 & 17 of paper book of O.A.)

4. The said averments have been replied by the State by filing affidavit in reply in para nos. 25, 26 & 27 and relevant text thereof reads thus :-

“25. With reference to contents of Paragraph No. 3t-II, the applicant was working on the post of Tahsildar (Revenue), collector office, Parbhani since 7.3.2014. As Applicant completed three years on the above post, she was eligible for transfer within any district in Aurangabad division. The Applicant was transfer as per the provisions of Section 4(iv) and 4(v) of Transfer Act 2005 and with prior approval of immediate Higher Competent Authority. Hence the transfer of the applicant is according to due process of law. Hence I deny the contention raised in Paragraph No. 3t-II.

26. With reference to contents of Paragraph No. 3t-III, I say and submit that, the Applicant was completed 3 years tenure on the post of Tahsildar Revenue, Parbhani and she was eligible for general transfer. The Civil Service Board recorded the reasons for transfer and recommended transfer of the Applicant on the post of Assistant District Supply Officer, Hingoli. The competent transferring authority with prior approval of immediate higher Competent Authority has accorded the sanction of transfer of the Applicant. The transfer order of the Applicant is as per the provisions of the Maharashtra Government Servants regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005. Hence deny the contentions raised in Para No. 3t-III.

27. With reference to contents of Paragraph No. 3t-IV, I say and submit that, the Civil Service Board meeting was held on the date 19.6.2018. The Civil Service Board recorded the reasons for transfer and recommended transfer of the Applicant on the post of Assistant District Supply Officer, Hingoli. Hence I deny the contention raised in Paragraph No. 3t-IV.”

(quoted from page 110 & 111 of paper book of O.A.)

5. Facts, which have been highlighted therein are as follows :-
- (i) Normal tenure for transfer is 3 years.
 - (ii) Applicant was due for transfer.

- (iii) Applicant's transfer was proposed and placed before Civil Services Board.
- (iv) Applicant's case was considered in the meeting of Civil Services Board dated 19.6.2018.

6. Minutes of meeting of Civil Services Board are placed on record at page no. 125 of the paper book of original application.

7. The said minutes of meeting reveal that the Civil Services Board was constituted for considering the matters of periodic transfer.

8. Name of present applicant Smt. Vidya Pandurang Shinde is mentioned at sr. no. 2 in the minutes (annexure to the minutes).

9. The applicant has already served at her present posting from 2014 onwards, but for the fact that decision regarding periodic transfer was being delayed, the impugned transfer could not attract the provisions of sec. 4(4) and 4(5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short the Transfer Act, 2005).

10. Learned Chief Presenting Officer has pointed out that proposal for periodic transfer i.e. annual transfer was submitted by the Divisional Commissioner, Aurangabad on 18.5.2018 and it

was considered by the Civil Services Board in its meeting held on 19.6.2018.

11. Thus, it is for the technicalities that decision was delayed by one month, the transfers are coming within ambit of sec. 4(4) and 4(5) of the Transfer Act, 2005 as same are periodic / annual general transfers.

12. This Tribunal would not like to bank upon on technicalities when it is the case of periodic / annual general transfer and decision was delayed and limit of 31st May was crossed. Therefore, though for all purposes the impugned transfer would term as midterm transfer but in fact it is a periodic / annual general transfer, delayed by few days.

13. In the circumstances, the impugned transfer order does not require any interference at the hands of this Tribunal and therefore the present Original Application is rejected.

14. In the circumstances, parties are directed to bear their own costs.

(A.H. JOSHI)
CHAIRMAN

Place : Aurangabad
Date : 6.5.2019.