

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**  
**NAGPUR BENCH : NAGPUR.**

**ORIGINAL APPLICATION NO. 47 of 2016**

Bhagchand Vasudeo Wanjari,  
Aged about 35 years,  
Livestock Development Officer( Technical),  
Z.P. Wardha,  
R/o 121, Keshav City, Near  
Vrundawan Nagar,  
Wardha.

----- **APPLICANT**

**VERSUS**

1. The State of Maharashtra through its  
Secretary, Agriculture, Animal Husbandry  
Dairy Development Department and  
Fisheries Deptt.  
Mantralaya, Mumbai.

2. The Chief Executive Officer,  
Zilla Parishad, Wardha.

-----**RESPONDENTS**

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1. Shri S.C. Deshmukh, Advocate holding for Shri D.M.  
Surjuse, Id. Counsel for Applicant.
  2. Shri A.P. Sadavarte, P.O. for Respondent 1.
  3. Shri P.V. Thakre, Advocate for R/2.

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**CORAM : B. Majumdar : Vice Chairman**

**DATE : 5<sup>th</sup> May, 2016**

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## ORDER

The applicant is a Livestock Development Officer (LDO), Group-A. He was posted at Wardha from 28/5/2014. On 16/1/2016 (wrongly stated as 16/5/2016) R/2, Chief Executive Officer (CEO), Z.P., Wardha, issued an order which states that the charge of LDO (Development), Panchayat Samiti, Karanja is being taken away from Dr. P.M. Mokaddam and is given to the applicant, <sup>and</sup> the applicant is being relieved on 16/1/2016 by Dr. P.R. Wankhede, who will hold this post as an additional charge. The applicant has challenged the legality of this order. The present O.A. was filed on 27/1/2016 and on 28/1/2016, the Tribunal stayed the impugned order.

2. The applicant submits that R/2 has no powers to transfer a Group-A officer like him. The impugned transfer order is both mid-term and mid-session and it is not issued in compliance with the provisions of the Transfer Act. R/2 could have easily given the charge of the post of LDO at Karanja by making local arrangements as similar posts are

available in the nearby Veterinary Centres. The applicant then submits that his son is recovering from burn due to boiled water and his treatment at Sewagram Wardha is required to be continued and his wife is also taking pregnancy treatment at Wardha.

3. R/2 has filed his reply. He submits that it was necessary to take away the charge of LDO, Karanja from Dr. G.M. Mokaddam and it was handed over to the applicant pending posting of a regular incumbent. The applicant's main establishment continues to be Wardha. The shifting of the applicant to Karanja is purely temporary. He further submits that the impugned order has been issued keeping in view Sections 95(1)(b) and (2) (a) (iii-a) of the Maharashtra Zilla Parishad and Panchayat Samiti Act, 1961.

4. Shri S.C. Deshmukh, Id. Advocate holding for Shri D.M. Surjuse, Id. Counsel for the applicant, submitted that the impugned order is clearly of transfer as it involved shifting of the applicant from Wardha to Karanja and it is a mid term

order as the applicant has not completed 3 years' service at Wardha. R/2 however did not follow the provisions of Section 4(5) of the Transfer Act, that is, taking approval of the Minister In-charge in consultation with the Secretary of the concerned Department as required under table in Section 6. He further submitted that no powers are vested in R/2 under the Maharashtra Zilla Parishad and Panchayat Samiti Act, 1961 for transferring a Group-A Officer.

5. Shri P.V. Thakre, Id. Counsel for R/2 submitted that the order shifting the applicant to Karanja is a purely temporary arrangement to meet administrative contingencies. The order states that the applicant by holding the charge of LDO, Karanja will maintain his original establishment at Wardha. He further submitted that under Rule 95 (2)(a)(iii a), R/2 was empowered to direct the applicant to hold charge of the post at Karanja on a temporary basis.

6. I find that the issue mainly raised in the present O.A. is whether the impugned order dtd. 16/5/2016 is an order



of transfer as per the provisions of the Transfer Act. Section 2 of the Transfer Act deals with 'Definition'. As per the Sub-section (i) 'Transfer' means posting of a Govt. servants from one post, office or Department to another post, office or Department. I reproduce below the contents of the impugned order dtd. 16/5/2016 :-

“ संदर्भित आदेश क्र.१ नुसार डॉ. जी एम मोकददम, प.वि.अ. यांचेकडे सोपविण्यात आलेला पशुधन विकास अधिकारी (वि.),पं.स., कारंजा , जि., वर्धा पदाचा कार्यभार त्यांचेकडून काढून घेण्यात येवून याद्वारे उक्त पदाचा कार्यभार शासनाकडून पुढील व्यवस्था होईपर्यंत डॉ. बी. व्ही. वंजारी, पशुधन विकास अधिकारी (तांत्रिक), पशुसंवर्धन विभाग, जि. प., वर्धा यांचेकडे सोपविण्यात येत आहे.

तसेच डॉ. बी. व्ही. वंजारी, प.वि.अ. यांचेकडील प.वि.अ. (तां), पशुसंवर्धन विभाग, जि.प., वर्धा यांचेकडील कार्यभार डॉ. पी. आर. वानखेडे, प.वि.अ. (मों), पशुसंवर्धन विभाग, जि. प., वर्धा यांचेकडे अतिरिक्त कार्यभार म्हणून सोपविण्यात येत असून डॉ. बी. व्ही. वंजारी, प.वि.अ.(तां), पशुसंवर्धन विभाग, जि.प. वर्धा यांना वरीलप्रमाणे पदस्थापनेच्या ठिकाणी रुजू होण्यासाठी दिनांक १६/१/१६ रोजी माध्याह्नानंतर कार्यमुक्त करण्यात येत आहे.

वरीलप्रमाणे डॉ. बी. व्ही. वंजारी, प.वि.अ. यांचे पदस्थापनेत बदल करण्यात येत असला तरीही त्यांची मुळ आस्थापना प.वि.अ.

(तां), पशुसंवर्धन विभाग, जि.प. वर्धा असल्याचे समजण्यात येत आहे.”

7. Thus, the order clearly states as follows :-

- a) The charge of LDO (Development), Karanja, is taken away from Dr. B.M. Mokaddam and given to the applicant;
- b) The applicant's charge of LDO (Technical) Wardha is to be held by Dr. P.R. Wankhede, as an additional charge;
- c) The applicant is being relieved on 16/1/2016 .
- d) After he joins his posting (पदस्थापना ) the applicant will ~~be~~ continued to be part of the establishment LDO, Wardha.

8. Thus, in terms of the order dtd. 16/1/2016, the applicant is posted at Karanja by shifting him from Wardha.

As per ~~the~~ definition of the term 'transfer' which I have cited above, the applicant's posting at Karanja is therefore clearly a transfer. Since this was done before the applicant could complete his tenure of 3 years at Wardha, this is a mid-term transfer. Hence in terms of Section 4(5) and Section 6 of the

Transfer Act, R/2 was required to take approval of the Minister In-charge in consultation with the Departmental Secretary before issuing the order. He was also required to put on record the reasons or special circumstances for the transfer. As the order has been issued without following the provisions of Rule 4(5), I find that R/2 has clearly committed an illegality and hence the impugned order is required to be quashed and set aside. Accordingly the O.A. stands disposed of in terms of the following order :-

- a) The impugned order dtd. 16/5/2016 is quashed and set aside.
- b) It is held that the applicant will continue to be posted as LDO, Wardha.
- c) No order as to costs.

sd/-

( B. Majumdar )  
Vice-Chairman.

Skt.