

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO 723 OF 2023**

DISTRICT : MUMBAI

Mr Anil Motiram Deokar)
Occ-Assistant Registrar of Cooperative)
Societies, R/at: R.D Chavan)
203, Guru Prasad Apt, Nana Master Nagar)
Mudre Khurd, Tal-Karjat, Dist-Raigad.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Cooperation, Marketing & Textiles)
Dept, Hutatma Rajguru Chowk,)
Madam Cama Rd, Mumbai-32.)
2. The Commissioner & Registrar,)
Cooperative Societies, M.S,)
2nd floor, New Central Building)
Opp, Sassoon Road,)
Near Collector Office, B.J Road,)
Pune 411 001.)
3. The Divisional Joint Registrar,)
Cooperative Societies, Mumbai Div.)
Malhotra House, 6th floor,)
Opp. GPO, Mumbai 400 001.)
4. Mr Prashant S. Patil,)
Working as Assistant Registrar,)
Cooperative Societies, F/S ward,)

6th floor, Malhotra House,)
Opp. G.P.O, Bora Bazar Precine City,))...**Respondents**
Fort, Mumbai-1.)

Shri K.R Jagdale, learned advocate for the Applicant.

Shri A.J Chougule, learned Presenting Officer for the Respondents no 1, 2 & 3.

Shri U.V Bhosle, learned counsel for Respondent no. 4.

CORAM : Justice Mridula Bhatkar (Chairperson)

DATE : 28.06.2023

J U D G M E N T

1. The applicant prays that this Tribunal be pleased to quash and set aside the impugned transfer order dated 21.6.2023 qua the applicant, passed by Respondent no. 2 as well as impugned transfer order of Respondent no. 4 dated 21.6.2023 qua the Respondent no. 4 passed by Respondent no. 2.

2. Learned counsel for the applicant challenges the impugned order on the following grounds:-

- (i) It is a mid-tenure transfer as the applicant had taken charge on 20.12.2021 and he is transferred by order dated 21.6.2023.
- (ii) The applicant's case was not placed before the Civil Services Board.
- (iii) There is no approval of the competent authority, i.e, Hon'ble Chief Minister.
- (iv) It is contrary to Section 4(4)(ii) and 4(5) of the ROT Act.
- (v) It is in violation of Circular dated 11.2.2015.

3. Learned counsel for the applicant further submitted that the applicant had earlier filed O.A 724/2021 challenging the transfer order dated 1.9.2021. Learned counsel has submitted that one Mr Tubhe, was transferred in his place by the said transfer order and the applicant was kept without posting for four months. By order dated 20.12.2021, the applicant was again appointed as Assistant Registrar, Cooperative Societies at F/S ward, 6th floor, Malhotra House, Opp. G.P.O, Bora Bazar Precine City, Fort, Mumbai-1. The said Original Application was finally disposed of on 21.12.2021. The Respondent-State has erroneously clubbed the period of earlier transfer and issued the present impugned order of transfer. Learned counsel for the applicant further submitted that some Society Election is declared and so he needs to be at the place of his present posting as Assistant Registrar, Cooperative Societies, F/S Ward, Mumbai-1.

4. Learned Presenting Officer, pursuant to the order of this Tribunal dated 27.6.2023 informs that the applicant was due for transfer so he is transferred during the general transfers and hence the approval of the competent authority is not required. Learned P.O has further submitted that the name of the applicant was placed before the Civil Services Board before he was transferred. Learned Presenting Officer files affidavit in reply dated 28.6.2023 through Sudam T. Kathe, Assistant Registrar, Cooperative Societies, C-Ward, Mumbai, in the office of the Commissioner & Registrar of Cooperative Societies, Pune, along with the Annexures. In this case, the applicant was first time transferred and posted to Mumbai by order dated 30.5.2019. However, by order dated 1.9.2021 one Mr Tubhe was transferred in place of the applicant and the applicant was not given any posting. The applicant challenged the said order of transfer by filing O.A 724/2021 on various grounds. The applicant was reinstated in his

previous post as Assistant Registrar, Cooperative Societies, B Ward, Mumbai by order dated 20.12.2021 and accordingly the said O.A 724/2021 was disposed of by this Tribunal by order dated 21.12.2021. Thus, the applicant was without posting from 1.9.2021 to 20.12.2021. Thereafter, he worked on the said post till 21.6.2023 and now he is transferred by the order dated 21.6.2023 from the post of Assistant Registrar, Cooperative Societies, Mumbai to the post of Assistant Registrar, Cooperative Societies, Devla, Dist-Nasik.

5. Learned counsel Mr Bhosle, for Respondent no. 4, has submitted that Respondent no. 4 was due for transfer and by way of general transfer he is not being posted in place of the applicant and he has taken charge on 22.6.2023.

6. The object of Section 3 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005, is that a civil servant is not to be transferred before he/she completes the normal tenure of 3 years, is to be construed in its true spirit. This is the assurance given to the civil servant that he will not be transferred in the middle of the tenure and there is some stability given to the civil servant while working at that particular post. The period of 3 years is required for the performance of the Government servant at a particular post, i.e., to have the understanding of the work, colleagues and staff and also delivering goods of his service. The applicant has earlier worked for 2 years and 2 months and thereafter he has put in 1 years and 6 months. Thus, in all he has completed more than 3 years at his present place of posting. Moreover, the applicant did not leave the place of posting, i.e., Mumbai, as he was not given posting. However, he was also paid

salary for the period without posting as per the order of this Tribunal of the said post in Mumbai.

7. Under such circumstances, it cannot be said that the impugned transfer order is illegal. Hence, I do not find merit in the Original Application and the same stands dismissed.

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 28.06.2023
Dictation taken by : A.K. Nair.