

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 255 of 2023****WITH CIVIL APPLICATION Nos.514 of 2023 and 480 of 2023 (S.B.)**

Vilas S/o Ramraoji Babrekar,  
Aged about 53 yrs., Occ. Service,  
R/o. Anand Vihar Colony, Shegaon- Rahatgaon Road,  
Tq. & Dist. Amravati.

**Applicant.**

**Versus**

- 1) State of Maharashtra, Through its Secretary,  
Soil and Water Conservation Department, Mantralaya,  
Mumbai, Tq. & Dist. Mumbai.
- 2) Superintendent Engineer,  
Regional Water Conservation Department,  
Soil Water Conservation Department, Amravati.
- 3) Sudesh Deorao Sasane,  
Aged about 50 years, Occ. Deputy Engineer and Sub Divisional  
Water Conservation Officer, Arvi, Tq. Arvi, Dist. Wardha.
- 4) Shri. Sanjay Krushnarao Mundane,  
Aged about 51 years, Occ. Service,  
Deputy Engineer and Sub Divisional Water Conservation Officer,  
(Minor Irrigation Sub Division, Dharni) Tq. Dharni, Dist. Amravati.
- 5) District Water Conservation Officer,  
Soil and Water Conservation Department,  
Amravati, Water Conservation Premises, Jail Road,  
Amravati.

**Respondents.**

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**Shri P.S. Patil, Advocate for the applicant.**

**Shri V.A. Kulkarni, learned P.O. for respondent nos.1 and 2.**

**Shri N.S. Warulkar, learned counsel for respondent no.3.**

**S/Shri G.G. Bade, P.P. Khaparde, Id. Counsel for respondent no.4.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

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**Date of Reserving for Judgment : 17<sup>th</sup> October,2023.**

**Date of Pronouncement of Judgment : 31<sup>st</sup> October,2023.**

**JUDGMENT**

**(Delivered on this 31<sup>st</sup> day of October,2023)**

Heard Shri P.S. Patil, learned counsel for the applicant, Shri V.A. Kulkarni, learned P.O. for respondent nos.1 and 2 and Shri G.G. Bade, learned counsel for respondent no.4. None for respondent no.3.

2. The case of the applicant in short is as under –

The applicant was appointed as a Junior Engineer in Zilla Parishad, Sub Division, Anjangaon Surji. The Government of Maharashtra issued G.R. dated 31/05/2017 and directed the employees whether they want to work in the Soil and Water Conservation Department or Water Conservation Department. The applicant was posted at Morshi on 17/08/2020. On 01/02/2023, respondent no.1 transferred respondent no.4 at respondent no.3 place, i.e., Sub Division, Water Conservation Officer, Arvi, District Wardha. As a consequence, respondent no.3 was repatriated to the Water Resources Department. The order dated 01/02/2023 was not implemented.

3. Surprisingly, the respondent no.1 modified the order dated 01/02/2023 and thereby cancelled the repatriation of respondent no.3.

The services of respondent no.4 are transferred to the place of applicant and it is stated that the applicant will be repatriated to his original Water Resources Department. Therefore, the applicant approached to this Tribunal for the following reliefs –

***“(IX) INTERIM RELIEF :-***

- 1. Grant stay to the effect and operation to the impugned Order dated 08.03.2023 issued by respondent no. 1 State Government during the pendency of main application on the file of this Hon'ble Court.*
- 2. It is further made clear that applicant is allowed to continue to work as a Sub Divisional Water Conservation Officer, Soil and Water Conservation Sub Division, Morshi, Dist. Amravati during the pendency of the present application with all consequential benefits of service.*
- 3. Grant any other relief which deem fit and suitable in the fact and circumstances of the case in favour of applicant and against the respondents.*

***(X) RELIEF SOUGHT -***

- (i) Quash and set aside the impugned transfer Order dated 08.03.2023 (Annexure-A-VI) issued by respondent no. 1 in the interest of justice.*
- (ii) Direct the respondents to continue the applicant as a Sub Divisional Water Conservation Officer, Soil and Water Conservation Sub Division, Morshi, Dist. Amravati in the interest of justice.*
- iii) Grant any other relief which this Hon'ble Court deems fit and proper in favor of present applicant in the facts and circumstances of the matter and in the interest of justice.”*

4. The reply is filed by respondent nos.1 and 2. It is submitted that the applicant is/ was working in the Water Resources

Department. He was on deputation in the Soil and Water Conservation Department. He is repatriated in his original department, i.e., the Water Resources Department. Therefore, it is not a transfer, but it is a repatriation. Hence, the O.A. is liable to be dismissed.

5. Respondent no.4 has submitted that he is transferred at the place of applicant. He is relieved, but because of the stay granted by this Tribunal, he could not join. Hence, the O.A. is liable to be dismissed.

6. Heard Shri P.S. Patil, learned counsel for the applicant. As per his submission to adjust respondent no.4, the transfer order is made against the applicant. Earlier order dated 01/02/2023 is not implemented. Only to give posting to respondent no.4, the order dated 08/03/2023 is passed. The learned counsel for applicant has submitted that the applicant has filed O.A.No.708/2021 for absorption in the Soil and Water Conservation Department. He has submitted that the impugned transfer order is malafide, it is a mid-term transfer order and therefore liable to be quashed and set aside.

7. Heard Shri G.G. Bade, learned counsel for respondent no.4. He has submitted that respondent no.4 is already relieved and because of the stay granted by this Tribunal, he could not join at the place of applicant. He has submitted that the impugned order is not a

transfer order, but it is a repatriation order and therefore the applicant cannot claim that it is a transfer. Hence, the O.A. is liable to be dismissed.

8. The whole disputes between the applicant and respondent no.4 are based on the G.R. dated 31/05/2017. There is no dispute that the applicant's parent Department is Water Conservation Department. He is working in the Soil and Water Conservation Department on deputation. The Government has issued the G.R. dated 31/05/2017. As per this G.R., the employees of Water Conservation Department, who were working on deputation, they were directed to give option before 15/07/2017. The applicant has not given any option, therefore, he is not absorbed in the Soil and Water Conservation Department. Till date the applicant's posting is at Water Conservation Department, but he is on deputation in the Soil and Water Conservation Department. The respondent no.1 has issued order dated 08/03/2023 by which the applicant is repatriated to his parent department, i.e. the Water Conservation Department and respondent no.4 is posted in his place. Therefore, it cannot be said that the order dated 08/03/2023 is a transfer order, because in this order the applicant was not given any posting. Therefore it is clear that it is a repatriation order.

9. The material part of G.R. dated 31/5/2017 (P-20) is reproduced below –

“(iv) मृद व जलसंधारण विभागाच्या आस्थापनेवर वरील परिच्छेद ८ iii) मध्ये नमूद केलेल्या पदांवर जलसंपदा विभागाचे अधिकारी/कर्मचारी सन १९९२ पासून तात्पुरत्या प्रतिनियुक्तीवर कार्यरत आहेत. सध्या कार्यरत असलेल्या जलसंपदा विभागाच्या या सर्व अधिकारी / कर्मचा-यांकडून, ते त्यांच्या मूळ जलसंपदा विभागाकडे परत जाणार आहेत अथवा मृद व जलसंधारण विभागात समायोजित होणार आहेत याबाबतचे विकल्प दि.१५ जुलै, २०१७ पर्यंत भरून घेण्यात येतील. त्यानुसार जे अधिकारी/कर्मचारी हे मृद व जलसंधारण विभागाकडे समायोजित होण्याचा विकल्प देतील त्यांना या विभागाच्या आस्थापनेवर समायोजित करण्यात येईल.

परंतु, जे अधिकारी/कर्मचारी त्यांच्या मूळ जलसंपदा विभागाकडे परत जाण्याचा विकल्प देतील असे सर्व अधिकारी/कर्मचारी त्यांच्या मूळ जलसंपदा विभागाकडे परत जाण्यासाठी पात्र ठरतील. परंतु, अशा सर्व अधिकारी / कर्मचा-यांना या शासन निर्णयाच्या दिनांकापासून यापुढील ४ वर्षांपर्यंतच्या कालावधीकरिता मृद व जलसंधारण विभागाच्या आस्थापनेवर कार्यरत ठेवण्यात येईल. या विभागाच्या आस्थापनेवरील पदे जसजशी भरण्यात येतील तसतसे या विभागाकडे न राहण्याचा विकल्प दिलेल्या जलसंपदा विभागाच्या अधिकारी/कर्मचा-यांना पुढील ४ वर्षांमध्ये टप्प्याटप्प्याने त्यांच्या विभागाकडे परत पाठविण्यात येईल.

मात्र, या दरम्यान जलसंपदा विभागाचे जे अधिकारी/कर्मचारी पदोन्नत होतील व पदोन्नतीनंतर त्यांना मृद व जलसंधारण विभागात पद उपलब्ध नसल्यामुळे अथवा पदोन्नतीनंतर त्यांना जलसंपदा विभाग दर्शविला गेल्यास अशा अधिकारी/कर्मचा-यांना पदोन्नतीनंतरच्या पदावर रुजू होण्यासाठी या विभागाकडून कार्यमुक्त करण्यात येईल.

परंतु आणखी असेही की, जलसंपदा विभागाकडील एकूण मंजूर, भरलेल्या व रिक्त या पदांचे जे प्रमाण आहे तेच प्रमाण या विभागाकडील कार्यरत व रिक्त पदांच्या बाबतीत कायम राखण्यात येईल. ”

10. The learned counsel for applicant Shri P.S. Patil has submitted that it is a mid-term transfer and therefore it is malafide. In support of his submission pointed out the decision in the case of the ***State of Maharashtra and Ors. Vs. Dr. (Ms.) Padmashri Shriram Bainade and Ors.,2015 (2) Mh.L.J.,679***. In the said Judgment, it was held that no any reason was assigned for the transfer, but it is mentioned in the transfer order that it is a repatriation. In the cited decision it was in respect of the inquiry.

11. In the present matter, the applicant was directed to give option till 15/07/2017, but the applicant had not given any option as per the G.R. dated 31/05/2017. Therefore, as per G.R. dated 31/05/2017, the applicant is repatriated. Hence, the impugned order dated 08/03/2023 cannot be said to be illegal. Hence, the following order –

**ORDER**

- (i) The O.A. is dismissed.
- (ii) The C.A. Nos.514/2023 and 480/2023 are disposed of.
- (iii) No order as to costs.

**Dated** :- 31/10/2023.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 31/10/2023.