

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.05/2018. (S.B.)

Sachin Raosaheb Korke,
Aged about 29 years,
Occ-Service,
Office of District Jail, Akola Naka,
Washim, Distt. Washim.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-32.
2. The Administrative Officer,
Additional Police Commissioner and
Inspector General of Prisons (M.S.),
Pune-1.
3. The Dy. Inspector General of Prisons (East),
Nagpur Division, Nagpur.
4. The Superintendent of Jail, Class-I,
Washim, Distt. Washim.

Respondents

Shri S.D. Chande, the Ld. Advocate for the applicant.
Shri A.M. Khadatkhar, the Ld. P.O. for the respondents.

Coram:-Shri J.D. Kulkarni,
Vice-Chairman (J)

JUDGMENT

(Delivered on this 19th day of July 2018.)

Heard Shri S.D. Chande, the learned counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for the respondents.

2. The applicant was appointed as Police Constable under Amravati Central Prison and thereafter was posted at Washim Jail under the supervision of respondent No.4. Since 4.1.2015, he is working as Police Constable at Washim Prison. After appointment, the applicant got married with one Neelam Beldar and his wife is serving as Talathi under the supervision of Tehsildar, Pachora, District Jalgaon.

3. On 19.1.2016, the applicant filed representation for transfer from Washim to Jalgaon on the ground that his wife was serving in Jalgaon district and, therefore, as per the policy of the Government that the husband and wife may be posted in the same district, he may be transferred to Jalgaon. Another representation was sent on 9.5.2017 through respondent No.4 to respondent No.2. Vide communication dated 4.7.2017, the applicant's representation was rejected on the ground that he has not completed the term for initial service. The applicant was, therefore, constrained to file this

O.A. He has prayed that the communication dated 4.7.2017 issued by respondent No.2 rejecting his claim, be quashed and set aside and the respondent No.2 be directed to allow the proposal of the applicant for transfer from Washim to Jalgaon.

4. The respondent Nos. 2 and 3 admitted that the applicant's claim was rejected. It is stated that the proposal of transferring the applicant was forwarded to the Committee and the Committee has taken a decision as per rules and considering the G.Rs and Circulars. It is stated that the applicant came to be appointed vide order dated 12.4.2013 at Central Prison, Amravati and then came to be transferred at Washim Prison. Firstly, he made an application on 13.2.2016 which was forwarded to respondent No.2. His request was, however, rejected vide communication dated 13.10.2016, since he has not completed his tenure and it was not an exceptional case. Thereafter, the applicant again made an application on 26.4.2017. But it was rejected and rejection was communicated to the applicant on 4.7.2017. It seems that every time, the concerned respondent forwarded the proposal of the applicant to the competent authority. But the competent authority considered various circulars and rejected his claim.

5. The learned counsel for the applicant has placed reliance on the G.R. dated 27.11.1997 (Annexure A-7) and particularly para 10 of the said G.R., which states that, "when the husband and wife are due for transfer, they may be adjusted at one and same place." The learned P.O., however, invited my attention to clause (2) of the said G.R. which reads as under:-

“प्रशासकीय कारणास्तव आवश्यक असलेल्या सर्वसाधारण बदल्या संबंधित शासकीय सेवकाची त्या पदावरील सेवा किमान एक वर्ष इतकी झाल्याशिवाय करू नयेत. सर्वसाधारणपणे एका पदावर ३ वर्षे व एकाच जिल्यात ५ वर्षे होईपर्यंत बदली करण्यात येऊ नये.”

6. As per clause (2) of the G.R., it will be clear that on administrative ground, an employee can be transferred, but after completion of one year. But normally he was not transferred after due completion of five years or total tenure of five years in the district. On perusal of documents on record as well as from pleadings, it seems that initially the applicant applied on 13.2.2016 for request transfer to Jalgaon. On 13.10.2016, he was intimated that since he has not completed his tenure and there is no exceptional reason for his transfer. Thereafter, he again filed representation for transfer and it was rejected vide communication dated 4.7.2017 on the similar ground. The learned P.O. has placed on record the minutes of the

meeting dated 26.4.2017, in which applicant's proposal for transfer to Jalgaon was considered and since he had not completed his tenure at Washim, it was decided not to transfer him. The Committee, therefore, seems to have acted as per the provisions in the G.R. and no malafides can be attributed to the respondents. The applicant's wife is serving as Talathi and is not in the same department of Government, in which the applicant is serving. In any case, the Committee thought it proper not to consider the applicant's name for transfer, since he has not completed his tenure and, therefore, I do not find any illegality in the rejection of applicant's request for transfer. The respondents, therefore, have not committed any illegality. Hence, I proceed to pass the following order:-

ORDER

The O.A. is dismissed with no order as to costs.

(J.D.Kulkarni)
Vice-Chairman(J)

Dt. 19th July 2018.

