

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 11/2019 (S.B.)

Abjalprakash S/o Nagesh Kanna,
Aged about 43 years, Occ. Service (Executive Engineer),
R/o Govt. Quarter, Suvarna Nagar,
Tata ground, Buldhana, Tq. & Dist. Buldhana.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Ministry of Water Resource Department,
Mantralaya, Mumbai-32.
- 2) The Superintending Engineer,
Irrigation Department, Tq. & Dist. Buldhana.

Respondents.

S/Shri H.S. Bali, S.N. Gaikwad, Advocates for the applicant.

Shri A.M. Ghogre, P.O. for the respondents.

**Coram :- Hon'ble Shri Anand Karanjkar,
Member (J).**

Date of Reserving for Judgment : 22nd November, 2019.

Date of Pronouncement of Judgment : 2nd January, 2020.

JUDGMENT

(Delivered on this 2nd day of January, 2020)

Heard Shri S.N. Gaikwad, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for the respondents.

2. The applicant is challenging the impugned order of transfer dated 7/12/2018 on the ground that the transfer order is premature and there was no administrative exigency for transferring the applicant before completion of the normal tenure.

3. The applicant joined service as Assistant Executive Engineer in the year 2013. On 6/4/2018 the applicant was promoted as per the seniority as Executive Engineer. The applicant was posted as Executive Engineer, Irrigation Department, Buldhana. It is submitted that the respondent no.1 all of a sudden passed order dated 7/12/2018 and transferred the applicant from Buldhana and posted him as Executive Engineer, Water Resource Project Division, Amravati. It is contention of the applicant that as per the order of promotion, he joined duty as Executive Engineer, Buldhana in the month of April,2018, there was no reason to transfer the applicant before completion of the normal tenure and therefore the impugned order of transfer is illegal and it be quashed.

4. The respondent nos.1&2 have justified the transfer on the ground that the performance of the applicant while discharging duty as Executive Engineer at Buldhana was very poor, the applicant had no experience to manage the office of the Executive Engineer and due to lethargy of the applicant, the Department was facing several difficulties, consequently, the Chief Engineer, Special Project,

Amravati forwarded his report to the respondent no.1 to transfer the applicant to other place. It is submitted that the matter was thereafter placed before the Civil Services Board. The case of the applicant was examined in view of the various letters written by the Superior Officers to the applicant for the compliance of the pending work and considering this material, the matter was placed before the Secretary of the Department and after the nod of the higher authority, the applicant came to be transferred from Buldhana to Amravati. It is contention of the respondents that for smooth functioning of the office of Executive Engineer, Buldhana, it was necessary to transfer the applicant before completion of the normal tenure. It is submitted that the reason for the transfer was the administrative exigency and therefore the application is devoid of merit.

5. I have heard the oral submissions of the applicant and on behalf of the respondents. The learned P.O. has filed the material documents which were placed before the Civil Services Board for consideration for transferring the applicant. It seems that it was observed by the Superintending Engineer that the applicant had no experience to work in the office of Executive Engineer and he had no experience in construction and Irrigation Management. The applicant was not aware of the responsibilities and duties of the Executive Engineer and he was not doing the work seriously. The learned P.O.

has invited my attention to the various D.O. letters written by the Superior Officers to the applicant. In D.O. letter dated 11/5/2018 request was made to the applicant to give clarification about expenditure Rs. 5,79,227/- along with explanation, it was also informed that his office would be responsible for the delay. The second D.O. letter is dated 8/6/2018. In this D.O. letter, it was mentioned that cognizance of the telephonic messages and the letters was not taken by the applicant and if any complication would arise, then the applicant would be personally responsible. The third D.O. letter is dated 2/8/2018. The learned P.O. has also invited my attention to the letter dated 16/8/2018 written by the Assistant Chief Engineer, Amravati to the Principal Secretary, Water Resources Department. In this letter, it was informed that the applicant had no experience of the Irrigation Management and Construction and therefore he be posted on non-executive post. I have also perused the note sheet which was placed before the Civil Services Board. In the note sheet the lapses committed by the applicant were considered and the Authorities came to the conclusion that it was not a case for taking disciplinary action, but it was suitable for the smooth administration of the office to change the posting of the applicant. It appears that after considering this material, the Civil Services Board

arrived to the conclusion that it was necessary to transfer the applicant on administrative ground.

6. Thus, it appears that the applicant was transferred in view of the lapses committed by him while discharging his duties as Executive Engineer, Irrigation Department, Buldhana. The applicant was unable to give correct and proper information to the higher authorities in time. Several reminders and telephonic messages were given to the applicant, but it was in vain. In view of this situation, the decision was taken by the Head of the Department to transfer the applicant, in my opinion the action of the Department cannot be termed as malafide. If performance of a Government servant is not up to the mark, then definitely for the smooth functioning of the Department, the Head of the Department can transfer such employee to another post. In view of this material, I do not see any merit in the contention that transfer order is illegal or malafide. As the conclusion drawn by the Civil Services Board is accepted by the respondent no.1, therefore, it can be said that procedure was followed by the Department. The applicant is not transferred at a whim of any person, on the other hand it seems that entire material was considered by the Civil Services Board, then recommendation for the transfer was made. In view of this, I am unable to accept that the transfer is illegal

exercise of jurisdiction by the authorities. Hence, I do not see any merit in the application.

7. In the result, the O.A. stands dismissed. No order as to costs.

Dated :- 02/01/2020.

(A.D. Karanjkar)
Member (J).

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 02/01/2020.
and pronounced on

Uploaded on : 03/01/2020..