

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR**

**ORIGINAL APPLICATION NO.152/2017.**

**(S.B.)**

Ishwar Tukaramji Dudhbarve,  
Aged about 50 years,  
Occ-Service,  
R/o Ramtek, District- Nagpur.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Revenue and Forests,  
Mantralaya, Mumbai-32.
2. The Chief Conservator of Forests (Territorial),  
Nagpur.
3. The Deputy Conservator of Forests,  
Nagpur.
4. The Range Forest Officer,  
Ramtek, District- Nagpur.

**Respondents**

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Shri G.G. Bade, the learned counsel for the applicant.  
Shri V.A. Kulkarni, the Ld. P.O. for the respondents.

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

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**JUDGMENT**

(Delivered on this 22<sup>nd</sup> day of November 2017).

Heard Shri G.G. Bade, the learned counsel for the  
applicant and Shri V.A. Kulkarni, the learned P.O. for the respondents.

2. The applicant is a Van Majur (Forest Labour) and has filed this O.A. to quash and set aside the impugned order of his transfer dated 7.9.2016 passed by respondent No.3 whereby he has been transferred from Ramtek to Narkhed. He has also prayed that the earlier order dated 3.12.2016 issued by respondent No.3 may also be quashed and set aside, since both the orders are against the provisions of Sections 3, 4 and 6 of the Maharashtra Government Servants Regulation of Transfer and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as, 'Transfer Act, 2005').

3. From the admitted facts on record, it seems that the applicant vide order dated 3.12.2016 was transferred from Narkhed to Paoni. Against the said order of transfer, the applicant has filed O.A. No. 758/2016. The applicant, has, therefore, has withdrawn his O.A. and filed fresh O.A. challenging both the orders of transfer i.e. at Narkhed as well as Paoni.

4. The learned counsel for the applicant submits that as per the order of his transfer dated 11.8.2016, he has been transferred from Deolapar to Ramtek and accordingly he went to join at Ramtek. But he was not allowed to join. As already stated, he was subsequently transferred to Narkhed. Both these orders are not as per the provisions of the Transfer Act, 2005.

5. According to the learned counsel for the applicant, the applicant joined at Deolapar on 1.4.2014. As per his request, he was transferred to Ramtek on 12.1.2016. He was relieved on 31.8.2016 and on 1.9.2016, he approached the office at Ramtek. But he was not allowed and in the meantime, he was transferred from Ramtek to Narkhed.

6. Respondent Nos. 2 to 4 have filed their affidavits-in-reply and tried to justify the order of transfer of the applicant. It is admitted that the applicant was transferred from Deolapar to Ramtek on 11.8.2016 on his own request and was relieved from Deolapar on 30.8.2016. However, the Range Forest Officer, Ramtek (R.4) vide letter dated 31.8.2016 communicated to respondent No.3 that the transfer order of the applicant from Deolapar to Ramtek may be cancelled, as the applicant was suspended from Ramtek on the charges of transportation of woods and if he is again transferred to Ramtek, possibility of repetition of incident cannot be ruled out and, therefore, on the recommendation of the Range Forest Officer, Ramtek, a proposal was moved to the competent authority to transfer the applicant from Ramtek to Narkhed. Considering the genuineness and nature of seriousness, approval was granted to the proposal and after receiving sanction from the competent authority, the applicant was transferred to Narkhed. The order is, therefore, passed under

administrative exigency and since it was mid-term transfer, sanction of the higher authority was taken. It is stated that the applicant has already been relieved from Ramtek so as to join at Narkhed.

7. The respondents further stated that, earlier the applicant was posted at Ramtek on 28.9.2016 considering his family problems. The applicant approached Shri Pote, Special executive Officer and Guardian Minister, Minister of Energy, Govt. of Maharashtra and tried to pressurize the respondents for his transfer at Ramtek. Respondent No.3 considered applicant's request for transfer and sent the proposal to transfer him at Parseoni or Paoni in Ramtek Range and accordingly he was transferred. It is stated that the conduct of the applicant in bringing undue political pressure on the authority is misconduct.

8. Respondent No.4 has also filed separate reply affidavit and tried to justify the order. It is stated that the applicant himself requested for his transfer from Narkhed to Paoni or Parseoni vide application dated 28.9.2016.

9. The learned counsel for the applicant submits that the Range Forest Officer, Ramtek has shown unwillingness to allow the applicant to join at Ramtek and, therefore, the impugned order has been passed whereby the applicant has been transferred from Ramtek to Narkhed. The learned counsel for the applicant further submits that the alleged incident in which the allegations are made against the

applicant was of the year 2013 and there was departmental enquiry in that regard and not only that in the departmental enquiry, the applicant has been punished and his one yearly increment has been stopped for three years with cumulative effect and his suspension was treated as suspension period. The said order has been placed on record at page Nos. 49 & 50. From the said order, it seems that the applicant was charged as under:-

श्री. ईश्वर तुकाराम दुधब वनमजूर (जलंघत) यांना यांचे कायदेपत्तल क. २७२ संरत वनात अवैधरया तोड झालेले सागवान झाड दसून आयावर यांनी यांचे वणठ, वनरक रामटेक क्वा सहायक रामटेक यांचे जदशमास आणून देणे यांचे कतय होते. परंतु यांनी ह बाब लपवून तथा अवैध तोड झालेया सागवान झाडापासून हाताआरजे तुकडे कन वतःचे घरगुती दवाण तयार करयाकरता वाहतूक कन व दुगाखराद and फज्जर माट रामटेक यांचेकडे दवाणाचे पाय तयार करयास नेऊन दयाचे चौकशीत जपन झाले आहे. याकारणातव या कायालयाचे संदभय . १ चे आदेशावये श्री. ईश्वर तुकाराम दुधब यांना जलंघत वेत्ते आण संदभय . २ अवये श्री. ईश्वर तुकाराम दुधब वनमजूर (जलंघत) यांनी महारा नागर सेवा (वतपूक) जयम, १९७९ चे जयम ३ चे पोटजयम (एक) (दोन) (तीन) चा भंग केयाचे पट झायावर म. ना. से. (शात व अपील) जयम, १९७९ चे जयम ८ या पोटजयम (३) (२) नुसार खालज माणे दोषारोप ठेवयात आला.

“शासकाय कतयावर असतांना अधिकाराचा दुपयोग कन शासकाय मालमोचा अपहार करणे”.

10. The learned counsel for the applicant submits that the applicant cannot be again punished by not recommending his name for

Ramtek only on the basis of such incident in 2013 for which he was already punished.

12. From the reply affidavit as well as documents placed on record, it seems that the R.F.O., Ramtek has requested the competent authority not to post the applicant in Ramtek Range, since the applicant was earlier kept under suspension and a departmental enquiry was initiated against him in which he was found guilty. Such recommendation seems to have been accepted by the competent authority and, therefore, they have decided not to transfer the applicant in Ramtek Range and that the applicant's transfer at Ramteke as well as subsequent order transferring him at Paoni has been cancelled. Admittedly, Paoni comes under Ramtek Range and, therefore, the competent authority seems to have acted in the interest of administration and decided not to post the applicant in Ramtek Range. Recommendation sent by R.F.O., Ramtek seems to have been accepted by the competent authority. I do not find any illegality or malafides in accepting such representation by the competent authority. In such circumstances, if the competent authority has taken a decision to post the applicant at Narkhed i.e. out of Ramtek Range, the said decision is only in the interest of administration. It is true that the recommendation of the applicant might be on the apprehension that the applicant may repeat misconduct for which he was punished

earlier in 2013. However, the decision taken by the respondent authorities not to post the applicant in Ramtek Range seems to be purely administrative. The R.F.O., Ramtek rightly thought it proper that because of applicant's conduct in Ramtek Range, there may be administrative problems. It has also come on record that, earlier the applicant had tried for his transfer to Ramtek through political influence. Considering all these aspects, I am therefore satisfied that the impugned order of transfer of the applicant from Ramtek to Narkhed dated 7.9.2016 cannot be said to be illegal. Similarly, the cancellation of his transfer dated 3.12.2016 from Narkhed to Paoni also cannot be said to be illegal. As per the provisions of the Transfer Act, 2005, the competent authority can take any decision to transfer any employee at any time, in case such transfer is necessary in the administrative exigency and if for such transfer, approval of the competent authority has been obtained. The learned counsel for the applicant submits that the transferring authority is the Chief Conservator of Forests, Nagpur and not the Dy. Conservator of Forests, Nagpur. However in this case, it is pertinent to note that the applicant's transfer from Deolapar to Ramtek on 11.8.2016 was passed by the Deputy Conservator of Forests, Nagpur and the subsequent transfer orders are also passed by the Dy. Conservator of Forests, Nagpur. The Deputy Conservator of Forests, Nagpur has sent the impugned transfer order

for approval to the Chief Conservator of Forests, Nagpur and the Chief Conservator of Forests, Nagpur has granted sanction. The said sanction letter has been placed on record at Annexure A-4 and accordingly the impugned order has been issued after getting due sanction. It, therefore, cannot be said that no sanction was obtained from the higher authority. Hence, the following order:-

**ORDER**

O.A. stands dismissed with no order as to costs.

Dt. 22.11.2017.

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

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