***MAHARASHTRA ADMINISTRATIVE* TRIBUNAL,**

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.26/2018. (S.B.)

Chandrakant Umajirao Mehetre,
Aged about 51 years,
Occ.Service,
R/o Yavatmal, District Yavatmal. **Applicant.**

-Versus-.

1. The State of Maharashtra,
   Through its Secretary,
   Public Works Department,
   Madam Cama Road, Hutatma Rajguru Chowk,
   Mantralaya, Mumbai-32.

2. The State of Maharashtra,
   Public Works Department,
   Yavatmal Division, Yavatmal,
   Through its Superintending Engineer.

3. Shri Chandrakant Shantalingappa Marpalliwar,
   Aged about-Major, Occ-Service,
   Executive Engineer,
   Public Works Department, Yavatmal.

4. The Zilla Parishad, Chiplun,
   Konkan Division, Chiplun, Ratnagiri,
   Through its Chief Executive Officer. **Respondents.**

Shri Tejas Deshpande, Advocate holding for
Shri S.K. Tambde, Ld. Advocate for the applicant.
Shri P.N. Warjukar, Ld. P.O. for the respondent Nos. 1 and 2.
Shri C.S. Kaptan, learned senior counsel alongwith the learned counsel Shri A.P. Kalmegh for respondent No.3.
Shri A.D. Borkute, the learned Counsel for respondent No.4.

Coram:- Hon'ble Shri Shree Bhagwan,
Member (A)

JUDGMENT

(Delivered on this 15th day of June, 2018.)

Heard Shri Tejas Deshpande, Advocate holding for Shri S.K. Tambde, the learned counsel for the applicant, Shri P.N. Warjukar, the learned P.O. for the respondent Nos. 1 and 2, Shri C.S. Kaptan, the learned senior counsel alongwith Shri A.P. Kalmegh, the learned counsel for respondent No.3 and Shri A.D. Borkute, the learned Counsel for respondent No.4.

2. The learned counsel for the applicant submits that the applicant was initially appointed as a Deputy Engineer on 1.8.1995. He was transferred as many as 12 times during the span of 22 years' of his service. Lastly he was promoted and transferred as Executive Engineer, P.W.D. No.2, Yavatmal vide order No. पीओजी-१११५/प्र.क्र. २८१/(७)/सेवा-१ of Public Works Department dated 27.11.2015. He further submits that the respondent No.3 was also promoted vide order No. पीओजी-१११७/प्र.क्र.१३६/(२६)/सेवा-१ of Public Works Department dated 4.9.2017 and was posted as Executive

Engineer, P.W.D. No.1, under the Zilla Parishad, Chiplun, Ratnagiri. Both the applicant and the respondent No.3 did not complete their normal tenure of three years at their respective places of posting and the transfer was effected in the light of the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as the “Transfer Act of 2005”). The learned counsel for the applicant submits that the transfer order is not a routine transfer but using political relations by respondent No.3. On this count also, he submits that the said transfer order dated 9.1.2018 be quashed and set aside.

3. Shri P.N. Warjukar, the leaned P.O. for respondent Nos. 1 and 2 submits that by this O.A., the applicant has challenged the transfer order No. टीएफएस-१११७/प्र.क्र. २५२(४)/ सेवा-१ of Public Works Department dated 9.1.2018 issued by respondent No.1 thereby transferring the applicant from the post of Executive Engineer, P.W.D., Yavatmal to the post of Executive Engineer, Z.P. (PWD), Yavatmal and also challenged the transfer of respondent No.3 transferring him from the post of Executive Engineer, Z.P. (PWD) No.1, Ratnagiri Chiplun on the post of the applicant at

Yavatmal. He submits that there is no substance and merit in the present O.A. and as such it is liable to be dismissed. Learned P.O. further submits that the decision to transfer the applicant and the respondent No.3 has been taken by the competent transferring authority due to administrative exigency and with prior approval and sanction of the competent authority. It is submitted that the applicant has been working at Yavatmal for more than 15 years.

4. The learned P.O. further submits that it is seen from the letter of Collector, Yavatmal dated 9.3.2017 that he has directed the Superintending Engineer, Yavatmal to start departmental enquiry and to suspend the Executive Engineer, Yavatmal regarding the work done of a gymnasium in Member of Parliament Local Area Development Programme.

5. Shri C.S. Kaptan, the learned senior counsel alongwith Shri A.P. Kalmegh, the learned counsel appeared on 8.6.2018 for respondent No.3 submitted that the applicant was posted in the office of Executive Engineer, Z.P., Yavatmal which is merely 27.5 meters away from the place of posting held by the applicant before the alleged transfer. The respondent No.3 has filed an affidavit on record to prove his case.

6. The learned P.O. has placed reliance on the judgment delivered by Principal Bench of this Tribunal at Mumbai in O.A. Nos. 717 to 721 of 2016 delivered on 23.1.2017 The learned counsel for the applicant has also placed reliance on the judgment delivered by Hon'ble Chairman at Principal Seat of this Tribunal at Mumbai in O.A. Nos. 770/2017 delivered on 9.11.2017. I have gone through both the judgments. With great respect to the judgment delivered by Hon'ble Chairman, I am satisfied that the facts of that case (O.A. No. 770/2017 at Mumbai Bench) are not applicable to the present set of facts and hence, the present O.A. deserves for dismissal. There is no substance in the present O.A. and it is liable to be dismissed.

7. Vide impugned order No.टीएफएस-१११७/प्र.क्र. २५२(४)/ सेवा-१ of Public Works Department dated 9.1.2018, the applicant was posted in same premises and there is no change of headquarters. Applicant by his own admission is relieved on 9.1.2018. As on today, there is no substance in this O.A.

8. On a conspectus of discussion in foregoing paras, I proceed to pass the following order:-

ORDER

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

(Shree Bhagwan)
Member (A)
15.6.2018.

pdg