

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.313/2012.

Dr. Vidhyanand Vijaykumar Gaikwad,
Aged about 37 years,
Occupation-Service,
R/o 1549, Siddhartha Nagar, Teka,
Nagpur-17

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Public Health,
Mantralaya, Mumbai-32.
2. The Chief Executive Officer,
Zilla Parishad, Nagpur.
3. Dr. Nadim Khan,
District Health Officer,
Zilla Parishad, Nagpur.
4. Dr. P.S. Bitheriya,
Medical Officer, Primary Health Centre,
Gunthala, Tq. Kamptee,
Distt. Nagpur.

Respondents.

Shri G.K. Bhusari, Advocate for the applicant.
Shri A.M. Ghogre, P.O. for the respondent No. 1.
Shri Majid Sheikh, Counsel for respondent Nos. 2 to 4.

Coram:- The Hon'ble Shri A.P. Deshpande,
Vice-Chairman.

Dated:- 7th January 2013.

Oral order

Taken up for final hearing with the consent of learned Counsel appearing for the respective parties.

2. Heard Shri G.K. Bhusari, the learned counsel for the applicant, Shri A. M. Ghogre, the learned P.O. for the respondent No. 1 and Shri Majid Sheikh, the learned counsel for respondent Nos. 2 to 4.

3. The applicant was initially appointed on Ad-hoc and temporary basis in the service of the State Government as Medical Officer. The Government took a decision to grant one time absorption/regularization to such of the Medical Officers who had put in more than three years of satisfactory service on 31st December 2007. As the applicant was satisfying the criteria for grant of regular absorption in State service, the applicant was so absorbed and regularized as Medical Officer, Group-A. After absorption of the applicant in permanent Government

service, he was issued an appointment order dated 9th/11th of February 2009.

4. By filing the present O.A., the applicant has challenged the order of transfer issued by Chief Executive Officer, Zilla Parishad, Nagpur (R.2) dated 15.5.2012 on the ground that after issuance of the G.R. dated 28.3.2012, the Chief Executive Officer, Zilla Parishad, Nagpur is robbed of his authority, power and jurisdiction to transfer the permanent Medical Officers. Prior to issuance of the G.R. dated 28.3.2012, transfers within the District were permitted, ^{at the hands of C.E.O.'s} as the said power was delegated in favour of the Chief Executive Officer of Zilla Parishad vide G.R. dated 29.1.2009. The said G.R. vesting the power to transfer within the District, has been withdrawn vide G.R. dated 28.3.2012. The respondent No.2, by filing an affidavit ^{has} denied that the applicant is a permanent employee of the State Government and hence contended that the applicant cannot get a benefit of G.R. dated 28.3.2012. The

respondent No.1/State of Maharashtra has filed an affidavit in reply and categorically stated thus--

"It is submitted that the applicant is a permanent employee of the State Government. The applicant has been absorbed in permanent service on the post of Medical Officer Group-A vide Government order dated 11.2.2009".

In view of categorical admission on the part of respondent No.1 that the applicant, on account of his absorption has become permanent employee of the State Government, It is obvious that the Chief Executive Officer of Zilla Parishad ^{does} ~~did~~ not have any power, authority or jurisdiction to transfer the applicant from one place to another even within the district. By the impugned order of transfer, the applicant has been transferred from Kamptee to Adegaon and the said order of transfer having been successfully challenged in the present O.A., by pointing out that the Chief Executive Officer of Zilla Parishad does not have any power, authority or jurisdiction to effect the transfer of Medical Officers, Group-A, the O.A. must succeed. It is

an admitted position that on account of ~~continuance~~^{passed} of an interim order by the Tribunal, the applicant continues to work at the same place from where he was transferred. In the result, allowing the O.A., I proceed to pass the following order:-

- (1) The O.A. is allowed.
- (2) The impugned order of transfer dated 15.5.2012 issued by the Chief Executive Officer of Zilla Parishad, Nagpur is quashed and set aside, however, with no order as to costs.

sd/-

(Justice A.P.Deshpande)
Vice-Chairman

Pdg