

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR.**

**ORIGINAL APPLICATION NO.318/2017.**

Anil Shivchand Chavan,  
Aged about 47 years,  
Occ-Service as Havadar,  
R/o Govt. Police Quarters, Morshi,  
Distt. Amravati.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Home Department,  
Mantralaya, Mumbai-32.
2. The Deputy Inspector General of Police,  
Nagpur.
3. The Superintendent of Open Prison,  
Morshi, Distt. Amravati.

**Respondents.**

---

Shri S.N. Gaikwad, the Ld. Advocate for the applicant.  
Shri M.I. Khan, the Ld. P.O. for the respondents.

---

**Coram:- Justice M.T. Joshi,**  
**Vice-Chairman (J).**

**Dated:- 24<sup>th</sup> August, 2017.**

---

**Order**

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

2. By the present application, the applicant is seeking quashing and setting aside of the order of his transfer from Open Prison, Morshi to Nagpur.

3. Admitted facts would show that the present applicant was posted to Yavatmal as a Havaladar vide transfer orders dated 13<sup>th</sup> October 2010. The affidavit in reply of respondent No.2 would show that as per the request made by the applicant, he was given transfer at Morshi Open Prison since 6<sup>th</sup> June 2011. Thereafter vide impugned order dated 9<sup>th</sup> May 2017, he was transferred to Nagpur. According to the applicant, the transfer is mid-term and mid-tenure as it is effected before completion of two terms i.e. six years.

4. The next contention of the applicant is that his daughter was to be married on 12<sup>th</sup> June 2017 as well as his son is undergoing education in 12<sup>th</sup> standard at Morshi. Therefore, he had made representation to respondent No.2. The respondent No.2, however, did not take any decision on the said representation and, therefore, quashing of the order was sought.

5. The present O.A. came to be filed on 30<sup>th</sup> May 2017. The learned Judicial Member of this Tribunal on the same day passed an interim order. The respondents were directed to maintain *status quo* till filing of the affidavit in reply. The affidavit in reply came to be filed on 7<sup>th</sup> August 2017 and in the circumstances, the present application was heard.

6. The learned counsel for the applicant submits that the representation of a similarly situated employee was considered by

respondent No.2 i.e. the Deputy Inspector General of Police, Nagpur. However, his request is not considered. He further submits that the transfer is mid-term as well as mid-tenure and hence he wanted that the application be allowed.

7. The learned P.O. opposed the plea. Additionally he relies on the ratio of the decision of the **Division Bench of the Hon'ble Bombay High Court, Bench at Nagpur in W.P. No. 3740/2009 dated 18<sup>th</sup> June 2010 and a decision of this Tribunal in O.A. No. 381/2009 dated 15<sup>th</sup> July 2009.**

8. In my view the present applicant has long back completed his tenure of three years. Therefore, his case that upon completion of this normal tenure, he could not have been transferred till the end of second tenure, cannot be accepted. The provisions of sub-section (1) of Section 3 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') has been clearly clarified by the Hon'ble High Court in the above referred decision in this regard.

9. In all these circumstances, the present transfer order cannot be faulted with on the allegation of being effected in mid-term or mid-tenure.

10. So far as the difficulty of the present applicant in moving to Nagpur is concerned, the first of the difficulty of solemnization of the marriage of his daughter on 12<sup>th</sup> June 2017 has been taken care of in view of the interim *status-quo* granted to the impugned order by the learned Judicial Member of this Tribunal. Even otherwise, he could have looked after the management of the marriage ceremony by availing leave etc.

11. Second difficulty of his son being taking education, cannot be accepted by this Tribunal, as the respondent No.2 who is the administrative head of the applicant, has taken into consideration all the aspects of the case. In the circumstances, I proceed to pass the following order:-

**ORDER**

- (i) Original application is dismissed without any order as to costs.
- (ii) As upon filing of the affidavit in reply, order of status quo came to an end, the applicant is directed to join as per impugned order forthwith.

(Justice M.T.Joshi)  
Vice-Chairman(J)

pdg

