

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 349/2018

Smt. Aruna S/o Vijay Kokode,
Aged about 38 years, Occ. Service,
R/o Plot no.19, Lahrikrupa Husing Society,
Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra through
Secretary Department of Sports and Education,
Mantralaya, Mumbai-32.
- 2) The Commissioner of Education,
Balharti, Senapati Bapat Road, Pune-04
- 3) The Deputy Director of Education Nagpur,
Division Nagpur.
- 4) The Principal, District Education and Training Institute,
Wardha.
- 5) Smt. Sangeeta N. Meshram,
Aged Major, Occ. Service,
R/o C/o District Education & Training Institute,
Wardha.
- 6) Shri P.C. Hood,
Aged Major, Occ. Service,
R/o C/o Sarav School, Nagpur.

Respondents.

S/Shri G.G. Bade, P.P. Khaparde, Advocates for the applicant.

Shri A.M. Khadatkar, P.O. for respondent nos. 1 to 4.

None for R-5.

Shri V.S. Zanzal, Advocate for respondent no.6

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

JUDGMENT

(Delivered on this 20th day of November,2018)

Heard Shri G.G. Bade, learned counsel for the applicant and Shri A.M. Khadatkar, learned P.O. for respondent Nos. 1 to 4. None for respondent Nos. 5 and 6.

2. The applicant was appointed as Assistant Teacher in the year 2003 and she joined the service at Wardha. Lateron she was transferred to Nagpur and thereafter the applicant was transferred to Wardha. It is case of the applicant that since 26/06/2015 she is working at Wardha and as she was due for transfer, therefore she submitted representation for her transfer to Nagpur to the respondents on the ground that her husband was serving at Nagpur.

3. The respondent no.5 is also serving as Assistant Teacher and posted at Wardha since 19/08/2015. It is grievance of the applicant that though respondent no.5 was not due for transfer, to show her favour the competent authority transferred respondent no.5 to Nagpur disregarding the fact that the applicant was due for transfer and had shown good reason. It is submitted that husband of the applicant was serving at Nagpur and therefore for re-union of husband

and wife it was necessary to transfer her to Nagpur, but it was not done. It is submitted that respondent nos. 1 to 4 have shown undue favour to the respondent no.5 and similarly to the respondent no.6. It is submitted that respondent no.6 was due for transfer from Nagpur but he was not transferred, therefore the impugned order dated 31/05/2018 transferring the respondent no.5 to Nagpur be set aside and the applicant be transferred from Wardha to Nagpur.

4. The respondent nos. 1 to 4 have submitted their reply at page nos.43 of the P.B. It is contended that husband of respondent no.5 was working as Assistant Teacher in the office of District Education and Training Institute, Nagpur and her case was recommended by the Civil Service Board and therefore respondent no.5 was transferred from Wardha to Nagpur. It is submitted that wife of respondent no.6 was suffering from embryo disorder and she was in need of medical treatment and constant care, therefore, for this reason the respondent no.6 as per the recommendation of the Civil Service Board was retained at Nagpur. It is denied that undue favour was shown to respondent nos. 5 and 6 and injustice is caused to the applicant.

5. The material point is whether any illegality is committed by the respondents in not transferring the applicant from Wardha to Nagpur or the act of respondent nos. 1 to 4 transferring the

respondent no.5 to Nagpur and retaining the respondent no.6 at Nagpur was with intend to show undue favour or it is actuated by malice. The applicant is placing reliance on the government G.R. dated 9/4/2018 and on the basis of this GR, it is contention of the applicant as her husband was posted at Nagpur and she was due for transfer, therefore it was mandatory for respondent nos. 1 to 4 to transfer her to Nagpur in lieu of respondent no.5.

6. After perusing the G.R. dated 9/4/2018 it is clear that this G.R. is not mandatory, but it is directory, the Government is authorised to transfer the Government servant for re-union with spouse and it is subject to availability of the post and other administrative exigencies. Therefore on the basis of the language of the G.R. it is not possible to draw inference that it is mandatory, consequently it is not possible to hold that the action of respondent nos. 1 to 4 not transferring the applicant to Nagpur is per-se illegal.

7. The applicant has placed on record Annex-A-4 the recommendation made by the Civil Service Board. The name of the applicant was not recommended by the Civil Service Board. The applicant has also placed on record Annex-A-5. It is list of the employees due for transfer. The name of the applicant is at sr.no.3. the applicant joined at Wardha on 26/06/2015. The Principal of College recommended to transfer the applicant, but it seems that

since 7/6/2007 till 9/6/2015 the applicant worked at Nagpur. Thus it seems that for continuous period of 8 years the applicant was at Nagpur and later on she came to be transferred to Wardha. The name of respondent no.5 is at sr.no.5, she was posted at Wardha on 19/8/2018. It is mentioned that the respondent no.5 joined on 29/6/2015 and as per the order passed by the Deputy Director of Education, Nagpur she was deputed to work in the office of District Education and Training Institute, Nagpur w.e.f. 19/8/2015. It is pertinent to note that though the respondent no.5 was transferred to Wardha, she was again deputed to work in District Education and Training Institute, Nagpur. It seems that in past, the respondent no.5 worked at Panchayat Samiti, Narkhed, District Nagpur and Panchayat Samiti, Deori, District Wardha from 2002 to 29/4/2005. In Annex-A-6 the Civil Service Board passed remark against the name of the applicant and respondent no.5 that as the post at Nagpur was not vacant, therefore, there was no need to recommend for their transfers. In this regard I would like to point out that as the respondent no.5 was already working at Nagpur on deputation and therefore she was adjusted at Nagpur, as there was no vacant post available to adjust the applicant at Nagpur, therefore, she was not transferred. So far as the respondent no.6 is concerned considering serious illness of his wife he was retained at Wardha. Under such circumstances it is not

possible to draw the inference that undue favour was shown either to the respondent no.5 or respondent no.6.

8. In view of this discussion, I am of the opinion that it is not possible to accept submission of the applicant that action of respondent nos. 1 to 4 not transferring the applicant to Nagpur is actuated with malice. Therefore I do not see any merit in this application. Hence, the following order :-

ORDER

The O.A. stands disposed of with no order as to costs.

Dated :- 20/11/2018.

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

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