

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 39 of 2020 (S.B.)

Ramesh Namdeo Katke,
Aged about 56 years,
Occ. Service as District Deputy Registrar,
Yavatmal.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Department of Cooperation & Textile,
Hutma Rajguru Chowk,
Madame Cama Marg, Mantralaya, Mumbai-32.
- 2) The Divisional Joint Registrar,
Amravati.

Respondents.

**S/Shri S.S. Ghate, S. Gupta, Dish Khandelwal, Advs. for the
applicant.**

Shri A.M. Khadatkhar, P.O. for respondents.

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

Dated :- 30/01/2020

JUDGMENT

Heard Shri S.S. Ghate, learned counsel for the applicant
and Shri A.M. Khadatkhar, learned P.O. for the respondents.

2. The learned counsel for the applicant submitted that vide
order dated 20/01/2020 the applicant was transferred from the post of

District Deputy Registrar (DDR), Cooperative Societies, Washim to the post of District Deputy Registrar (DDR), Cooperative Societies, Yavatmal on vacant post. In this order, specific direction was given to the applicant to join his duty at Yavatmal immediately and submit the report to the Commissioner and Registrar, Cooperative Societies (M.S.), Pune. It is case of the applicant that in view of the specific direction, he promptly resumed his duty on 21/01/2020 and received the charge from Smt. Archana S. Malve, Assistant Registrar, Cooperative Societies, who was holding the charge of D.D.R. Yavatmal and forwarded the report to the Secretary, Government of Maharashtra, Cooperation, Registration and Textile Department. The report was also forwarded to the Joint Commissioner and Registrar, Cooperative Societies (M.S.), Pune and Divisional Joint Registrar, Cooperative Societies, Amravati and other offices.

3. It is grievance of the applicant that all of a sudden without any reason the respondent no.1 issued order dated 22/1/2020 and issued direction to the applicant that though he was transferred from Washim to Yavatmal as per the order dated 20/1/2020, he shall continue to work as DDR, Cooperative Societies, Washim and the order dated 20/01/2020 was stayed. The learned counsel for the applicant submitted that the order of transfer Annex-A-1, dated 20/01/2020 was complied with, therefore, there was no propriety to

stay the order. It is submitted that if any order is complied with, it cannot be stayed. It is submission of the applicant that only for political colour, the applicant was not required at Yavatmal to look after the election work of the Cooperative Bank and consequently decision was taken to get rid of the applicant. It is further contended that in order to give bye pass to Section 4 (5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (In short "Transfers Act,2005"), the second order Annex-A-6 dated 22/01/2020 was issued for staying the operation of the transfer order. It is submission of the applicant that order Annex-A-6 is apparently illegal as the applicant had joined the duty at Yavatmal.

4. The respondent nos.1&2 have filed their reply at page no.25. The main contention of the respondents is that it was necessary for the applicant to seek necessary permission from the respondent no.2 before joining duty at Yavatmal. It is submitted that the applicant was not relieved as per the official procedure, the applicant did not hand over charge of the post of DDR, Cooperative Societies, Washim and he straight way went to Yavatmal and joined duty. According to the respondents, this behaviour of the applicant is misconduct for which the applicant is liable. It is contention of the respondents that by misrepresenting the facts, the applicant sought

status-quo order from the Bench and therefore the order dated 23/1/2020 directing to maintain status-quo be vacated and the O.A. be dismissed.

5. The respondent nos.1&2 have also filed Annex-R-1 and Annex-R-2. The Annex-R-1 is dated 22/01/2020 written by the respondent no. 2 to the applicant. In Annex-R-1 it is mentioned that before seeking permission of the respondent no.2, the applicant resumed duty at Yavatmal and due to absence of the applicant from Washim, there was inconvenience to office. The applicant was also called upon to give explanation why he directly resumed duty at Yavatmal. The Annex-R-2 is second letter written by the respondent no.2. In this letter, it was mentioned that the charge of the post of DDR, Cooperative Societies, Yavatmal was handed over to Smt. Archana Malve and Smt. Archana Malve was directed to look after the work of DDR, Cooperative Societies, Yavamtal till further orders. The Annex-R-3 is the Memo issued by the respondent no.2 to the applicant. In the Memo it is alleged that the applicant joined the duty at Yavatmal without handing over charge of this post at Washim and without seeking permission of the respondent no.2. It is also alleged in the Memo that when the applicant was contacted on 23/01/2020, his Mobile was switched off and he was not present in his office at

Washim or Yavatmal and consequently he was directed to give explanation directly to the Principle Secretary of the Department.

6. After reading the Annex-A-1 the transfer order dated 20/01/2020, it seems that the applicant was specifically directed by the respondent no.1 to immediately join at Yavatmal and submit report of his joining to the Commissioner and the Registrar, Cooperative Societies (M.S.), Pune. After reading the Annex-A-1 transfer order, it must be accepted that the applicant was specifically directed to join duty as DDR, Cooperative Societies, Yavatmal immediately. In view of this specific direction, in my opinion it was not necessary for the applicant to seek permission of the respondent no.2 for resuming the duty as DDR, Cooperative Societies, Yavatmal.

7. Secondly, I would like to point out that when the applicant went to join as DDR, Cooperative Societies, Yavatmal on 21/01/2020 Smt. Archana S. Malve, Assistant Registrar, Cooperative Societies was holding charge of the post of DDR, Cooperative Societies, Yavatmal. Smt. Archana S. Malve handed over charge of the post to the applicant on 21/01/2020 before Noon and on the same day the joining report was forwarded to the Secretary of the Department, the Joint Commissioner and the Registrar, Cooperative Societies, Pune and the respondent no.2.

8. It is contention of the learned P.O. that as per the procedure it was incumbent on the applicant to hand over charge of his post at Washim to some responsible Officer and then proceed to join the post of DDR, Cooperative Societies, Yavatmal. Here, I would like to point out that as the order Annex-A-1 was specific, the applicant was directed to join duty at Yavatmal immediately, this can be interpreted that there was something in the mind of the Government, therefore, he was directed to take the charge as DDR, Cooperative Societies, Yavatmal immediately holding the charge of the post of DDR, Cooperative Societies, Washim. Thus, it seems that when the second order Annex-A-6 was issued on 22/01/2020, the applicant had already resumed duty in pursuance of the transfer order, consequently the order was executed and there was no reason and substance in staying that order. In this situation, the only alternative before the respondent no.1 was to re-transfer the applicant to Washim. In my opinion, only for giving bye- pass to the provisions under Section 4 (5) of the Transfers Act,2005, the stay order dated 22/01/2020 was issued. As the applicant had already resumed duty in pursuance of the transfer order, therefore, I do not see any merit in the contention that the stay order dated 22/01/2020 has any effect.

9. In this regard, I would like to point out that when Smt. Archana S. Malve, Assistant Registrar handed over the charge of the

post to the applicant, she did not ask whether the applicant was relieved by the respondent no.2. Thus, inference can be drawn that Smt. Archana S. Malve also interpreted the order in same manner as it was interpreted by the applicant, therefore, she handed over the charge of the post to the applicant on 21/01/2020. There are so many instances where one head of the district even after transfer is kept in-charge of the post of head of the other district, in Government service it is not uncommon. Under these circumstances, as the transfer order was already executed as the applicant had resumed the duty at Yavatmal on 21/01/2020, therefore, there was no question to stay the effect of the order.

10. In view of this, I do not see any merit in the contention of the respondents that the applicant illegally resumed duty at Yavatmal and it was necessary for him to seek permission of the respondent no.2. After considering the facts and circumstances, it seems that there is substance in the submission of the applicant that only for some political reasons, the order Annex-A-6 was issued without following the provisions under Section 4 (5) of the Transfers Act, 2005 and therefore the order Annex-A-6 is illegal and it is required to be quashed. Hence, the following order –

ORDER

The O.A. stands allowed. The order impugned dated 22/01/2020 staying the effect of the transfer order is hereby quashed.

No order as to costs.

Dated :- 30/01/2020.

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

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I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 03/02/2020.

Uploaded on : 04/02/2020.