

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 423 OF 2023**

**DISTRICT:- NANDURBAR**

Smt. Niketa Bhuresing Nayak  
Age – 35 years, Occu. Mandal  
Aadhikari Service at . Tahsil  
Office, Shahada, Tq. Shahada,  
District Nandurbar.

**.. APPLICANT.**

**V E R S U S**

- 1) The State of Maharashtra,  
Through : The Principal Secretary,  
Revenue & Forest Department,  
Mantralaya, Mumbai-32.
- 2) The Divisional Commissioner,  
Nashik Road, Nashik Division,  
Nashik.
- 3) The District Collector, Nandurbar  
Maharashtra State, New  
Administrative Building, Nandurbar. **.. RESPONDENTS.**

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APPEARANCE : Shri Rakesh N. Jain, learned counsel for  
the applicant.

: Shri M.P. Gude, learned Presenting  
Officer for the respondent authorities.

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**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN**

**DATE : 26.07.2023**  
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**ORAL ORDER**

Heard Shri Rakesh N. Jain, learned counsel for the  
applicant and Shri M.P. Gude, learned Presenting Officer for the  
respondent authorities.

2. The grievance of the applicant is that she has been  
transferred vide impugned order dated 26.5.2023 issued by

respondent No. 2 in violation of the provisions of the Maharashtra Government Servants Regulation of Transfer and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short "the Transfer Act of 2005), as well as, guidelines laid down in the Government Resolution dated 9.4.2018. Vide the impugned order, the applicant has been transferred from the post of Circle Officer, Brhamanpuri, Tahsil Office Shahada, Dist. Nandurbar to the post of Awwal Karkoon (Treasury), Tahsil Office, Shahada.

3. Learned counsel appearing for the applicant submitted that as the options were invited by the respondents the applicant had given 10 options having regard to the vacancy position and was expecting that she will be transferred on any one of such posts. However, discarding the options so given and without conducting the process of counseling, the respondents have passed the impugned order. Learned counsel submitted that equivalent post like Supply Inspector at Tahsil Office, Shahada is still vacant and the applicant can be very well accommodated on the said post. Learned counsel submitted that for the said post however, the applicant had not given any option. Learned counsel in the circumstances, has prayed for setting aside the impugned order being violative of the provisions under the Transfer Act of 2005 and direct the

respondents to consider the request of the applicant for retention on the existing post or to give her posting at any place for which she had submitted options or in the alternative in the post of Supply Inspector, which is vacant in the Tahsil Office, Shahada.

4. Shri M.P. Gude, learned Presenting Officer has opposed the submissions made on behalf of the applicant. Learned P.O. submitted that after the list of candidates due for transfer was published by the respondents and after options were submitted by the applicant, subsequent to that she made an application on 10.5.2023, thereby praying for her retention at Shahada. Applicant on 15.5.2023 again made the same request. Learned P.O. submitted that having regard to the request made by the applicant on the ground of her ill-health and considering her family difficulties, respondents decided to give posting to the applicant in the same Tahsil Office at Shahada. According to the respondents, when the request of the applicant not to transfer her from Shahada is considered, she is estopped from raising any grievance about the impugned order of transfer. Learned P.O. in the circumstances, prayed for dismissal of the O.A.

5. The applicant has not disputed the fact that on 10.5.2023 and thereafter on 15.5.2023 she made request/representation

to the Collector, Nandurbar for her retention at Shahada on the ground of her ill-health and certain family difficulties. I deem it appropriate to reproduce the aforesaid representation dated 10.5.2023 written by the applicant to the Collector, Nandurbar as it is in vernacular, which reads thus: -

“दिनांक १०/०५/२०२३

प्रति,  
जिल्हाधिकारी सो. नंदुरबार,  
(आस्थापना शाखा)

विषय:- नियतकालिक बदल्या सन २०२३ अंतर्गत मुदतवाढ होऊन मिळणेबाबत.

अर्जदार:- श्रीमती निकिता भूरेसिंग नायक, मं.अ. ब्राह्मणपुरी ता. शहादा.

संदर्भ:- आपलेकडील पत्र क्रमांक/ब/कक्ष-१/कवि/२०६/२०२३ दिनांक ०३/०५/२०२३

महोदय,

उपरोक्त विषयान्वये, मी विनंती पूर्वक अर्ज करिते कि, वरील संदर्भिय पत्रान्वये नियतकालिक बदल्या सन २०२३ अंतर्गत मी बदली पात्र यादीत अ.क्र. १० वर माझे नाव श्रीमती. निकिता भूरेसिंग नायक मंडळ अधिकारी ब्राह्मणपुरी ता. शहादा जि. नंदुरबार बदली पात्र दर्शिवण्यात आलेले आहे.

तसेच माझी नियुक्ती मा. जिल्हाधिकारी सो. नंदुरबार यांचेकडील आदेशाने दिनांक ३१/०५/२०१९ अन्वये प्रथम पादोन्नती मिळाली आहे व माझी रुजू दिनांक १०/०६/२०१९ असून मला ३ वर्ष ११ महिने इतका कालावधी झाले आहे तसेच माझी प्रकृती चांगली नसल्याने वैद्यकीय उपचार शहादा येथे सुरु असल्याने व कौटुंबिक अडचण असून सासू सासरे वयोवृद्ध आहे व मला त्यांचाकडे लक्ष द्यावे लागते व माझा मुलगा इयत्ता १ ली मध्ये शिकत असून jagma world school, खेडदिगर ता. शहादा येथे शिकत आहे. तरी आपणास विनंती कि मला सदयाचा पदावर एक वर्षाकरिता मुदतवाढ मिळावी माझा अर्जाचा सहानुभूतीपूर्वक विचार करण्यात यावा हि नम्र विनंती.

आपली आज्ञाकीत

(श्रीमती निकिता भूरेसिंग नायक)”

If the contents of the aforesaid letter dated 10.5.2023 are perused, as well as, contents of the letter dated 15.5.2023 are perused, it can be gathered that the request of the applicant was that she shall be kept at Shahada and shall not be transferred from Shahada.

6. In the affidavit in reply the respondents have come out with the defence that the request so made by the applicant has been considered, however, since retention was not possible on the existing post, she has been given some another equivalent post in the same office i.e. Tahsil Office, Shahada. Though learned counsel appearing for the applicant has referred to provisions under the Transfer Act of 2005 and the guidelines laid down in the Government Resolution dated 9.4.2018, the applicant has failed in making out any case as to what prejudice has been caused to the applicant because of such transfer in the same office. When it was the request of the applicant herself that she shall not be transferred from Tahsil Office, Shahada and when the said request has been considered, now the applicant cannot make any grievance that the options given by her for her posting at some places in Nandurbar District are not considered.

7. Learned counsel appearing for the applicant submitted that the applicant does not have any experience of working in the Treasury office and, as such, also she is reluctant to work on the said post. Learned counsel submitted that post of Supply Inspector is equivalent to the post of Circle Officer and the said post in Tahsil Office is vacant. Learned counsel submitted that the applicant can be given posting on the said

post. He, therefore, prayed for such direction against the respondents. The contentions so raised are wholly unacceptable and the prayer made is liable to be rejected at the threshold. The applicant is showing her reluctance to work on the post of Awwal Karkun (Treasury) stating that she does not have any experience of work on the said post. However, when claiming the post of Supply Inspector it is not the case of the applicant that she had experience of working on the said post. In any case, such contentions and such prayers do not deserve any consideration. The Government employee cannot insist for and seek his posting to a particular post. It is the prerogative of the departmental authorities to give posting to the employees working under them as per the requirement of the administration.

8. After having considered the entire facts and circumstances involved in the matter, I see no merit in the O.A. so preferred by the applicant and the prayer made therein. The O.A. being without any substance deserves to be dismissed and is accordingly dismissed. There shall be no order as to costs.

**VICE CHAIRMAN**