

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 444/2018 (S.B.)

Suresh Dinanath Tripathi,
Aged about 54 years, R/o Plot No.113,
Ayodhya Nagar, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
through its Department of Revenue &
Forest, Mantralaya, Mumbai through
its Secretary.
- 2) Dy. Conservator of Forest,
BSNL Sanchar Laxmi Building,
Kasturchand Park, Nagpur.
- 3) Range Forest Officer,
Butibori Range, Butibori,
Distt. Nagpur.
- 4) D.P. Kokade,
Deolapas Wild Life Division,
Forest Department, District Nagpur.

Respondents.

Shri N.R. Saboo & Mrs. K.N. Saboo, Advocates for the applicant.

Shri P.N. Warjurkar, P.O. for respondent nos. 1 to 3.

None for respondent no.4.

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

Date of Reserving for Judgment : 9th August, 2019.

Date of Pronouncement of Judgment : 9th August, 2019.

JUDGMENT

(Delivered on this 9th day of August,2019)

Heard Shri N.R. Saboo, learned counsel for the applicant and Shri P.N. Warjurkar, learned P.O. for respondent nos. 1 to 3. None for respondent no.4.

2. The applicant is challenging his transfer from Butibori to Nagalwadi Wildlife Forest mainly on the ground that it is mid-term transfer and the transfer is in violation of the Government G.R. dated 22/5/2017 as the applicant even after completion of 50 years was transferred to Wildlife Forest though the posts were vacant to accommodate the applicant.

3. It is contended that the applicant was not considered for transfer when general transfer orders were issued and later on 22 Foresters were transferred vide order dated 15/6/2018. It is submitted that this order is illegal for the reason that order is silent and it is nowhere mentioned in the order what was the official exigency for the mid-term transfers.

4. The learned P.O. submitted that the applicant had completed his normal tenure, the applicant never worked in Wildlife Forest and therefore as per the policy formulated in the G.R. dated 22/5/2017 the applicant was transferred to Wildlife Forest. It is

contended that the proposal for the transfer was forwarded to the Civil Services Board and later on after approval by the Civil Services Board, the next Higher Authority of the Transferring Authority granted sanction. It is contention of the learned P.O. that the impugned transfer is perfectly legal and for administrative exigency the applicant was transferred, therefore, the application is liable to be dismissed.

5. I have perused the Annex-A-1 transfer order dated 15/6/2018, it appears that the applicant was serving at Butibori West in Butibori Forest Range and he was transferred to Ambazari, Nagalwadi Wildlife. There is no dispute about the fact that the applicant has completed the age of 50 years and he is aged 54 years.

6. I have perused the G.R. dated 22/5/2017. In this G.R. specific direction is given that after posting on the post of Forester either by promotion or nomination if the candidate is aged below 50 years, then preference shall be given to Wildlife and the Forester who has completed the age of 50 years should be posted in the Regional / Social Forestry as per the post available and it is not mandatory to post such Foresters only in Wildlife Project.

7. As it is not disputed that the applicant has completed the age of 50 years, now he is running 54, therefore, the respondents should have considered this aspect and the direction in the G.R. It seems that this direction in the G.R. was not considered.

8. The learned P.O. has submitted that the applicant never worked in the Wildlife Forest and therefore it is mandatory to post the applicant in the Wildlife Project. After reading the G.R. dated 22/5/2017, I do not see any merit in this submission.

9. It is contention of the learned P.O. that the transfer order dated 15/6/2018 was for administrative exigency. Here it must be noted that total 22 Foresters are transferred by this order and so far as the applicant is concerned, his age and provisions in the G.R. dated 22/5/2017 were not considered and decision was taken to transfer the applicant to Wildlife Project. After reading the G.R., it seems that if the posts are vacant in the Social Forestry or other branches of the Forest Department, then the Forester who has crossed age of 50 years, should not be transferred to wild life project.

10. On 26/2/2019 direction was given to the respondents to consider the representation of the applicant as the applicant had shown willingness to accept the post in the Nagpur Social Forest excluding Wildlife Project. Vide letter dated 14/3/2019 the Deputy Conservator of Forests informed that it was not possible to adjust the applicant on a vacant post available in Seminary Hills Range, Nagpur or not possible to appoint the applicant at Khapa Forest Range, but it was indicated that the applicant could be appointed at Gorewada Project on the post. The learned counsel for the applicant invited my

attention to order dated 9/7/2019 and submitted that Shri S.D. Chate was posted at Gorewada Project and the post is not vacant. Thereafter again the Deputy Conservator of Forests wrote letter dated 1/8/2019 and reiterated that as per the provision in the G.R. dated 22/5/2017 as per the recommendation the applicant was transferred to Wildlife Forest Project and therefore it is not possible to post the applicant in the Seminary Hills Forest Range on a vacant post. Thus, it seems that it is insistence of the Deputy Conservator of Forests that the applicant shall work in Wildlife Project only, though the posts are vacant in other branches of the Forest Department. In my opinion, this approach of the learned Deputy Conservator of Forests is apparently contradictory to the policy laid in the G.R. dated 22/5/2017. Here, I would like to point that the applicant is not responsible as he was not posted in Wildlife Project when his age was less than 50 years, therefore, it is apparent violation of the direction in the G.R. dated 22/5/2017. Here I would like to point out that these aspects of the matter were not brought to the notice of the Civil Services Board and mechanically the applicant was transferred. In this situation, I am compelled to say that exercise of jurisdiction by the respondents is in violation of law and therefore I direct that the applicant be permitted to work at Butibori Range. The respondents are at liberty to transfer the

applicant in the general transfers in the year,2020. Accordingly, the O.A. stands disposed of. No order as to costs.

Dated :- 09/08/2019.

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

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 : 13/08/2019.

Uploaded on : 13/08/2019.