

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 481/2019 (S.B.)**

Nilay Suresh Bhoge,  
Aged about 42 years, Occ. Service,  
C/o Range Forest Office, Bhandara,  
R/o 32, Range Forest Colony,  
J.M. Patel Road, Bhandara.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through the Department of  
Revenue and Forest,  
through its Principal Secretary.
- 2) Principal Chief Conservator of Forest (HOFF),  
Van Bhawan, Ramgiri Road,  
Civil Lines, Nagpur.
- 3) Additional Principal Chief Conservator of Forest,  
(Administration), Office of Principal Chief  
Conservator of Forest (HOFF),  
Van Bhawan, Civil Lines, Nagpur.
- 4) Chief Conservator of Forest  
(Territorial), Nagpur, Forest Circle,  
Nagpur.
- 5) Deputy Conservator of Forest,  
Bhandara Division, Bhandara.

**Respondents.**

---

**S/Shri A.C. Dharmadhikari, R.P. Jog, Advocates for the applicant.**

**Shri H.K. Pande, P.O. for respondents.**

---

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

---

**Date of Reserving for Judgment : 4<sup>th</sup> July, 2019.**

**Date of Pronouncement of Judgment : 11<sup>th</sup> July, 2019.**

## **JUDGMENT**

**(Delivered on this 11<sup>th</sup> day of July,2019)**

Heard Shri A.C. Dharmadhikari, learned counsel for the applicant and Shri H.K. Pande, learned P.O. for the respondents.

2. The applicant is serving as Range Forest Officer, he was posted at Range Forest Office, Bhandara. It is grievance of the applicant that vide impugned order dated 25/6/2019 he is transferred before the completion of normal tenure from Bhandara to Forest Depot, Navegaon Bandh, District Gondia. It is submission of the applicant that the transfer is in violation of the provisions under Section 4(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 contention is that there was no administrative exigency for transferring the applicant before completion of the normal tenure, but only for accommodating some other person as per whim the applicant is transferred.

3. It is submission of the applicant that the respondents have not followed the procedure and straight way direction was issued to

Ms. Sonam G. Dhole, Range Forest Officer, Bhandara for taking one sided charge of the post of the applicant and to relieve him from the duty in his absence. It is submitted that the undue haste shown by the respondents in removing the applicant from Bhandara is itself evident to show that there was intention to remove the applicant without following the due procedure. The transfer is also challenged on the ground that it is in violation of Circular dated 29/07/2018 and also the procedure laid down under Section 4 of the Transfers Act,2005.

4. The claim is resisted by the respondents mainly on the ground that the complaints were received regarding the behaviour of the applicant while discharging the official duty and considering the said complaints, the matter was placed before the Additional Chief Conservator of Forests and thereafter seeking approval of the next Higher Authority, the decision was taken to initiate the departmental inquiry against the applicant and transfer him. It is submitted that the procedure laid down under Section 4(4) & (5) of the Transfers Act,2005 is duly complied with and consequently in contemplation of the departmental inquiry, decision was taken to transfer the applicant. It is submitted that there is no substance in the contention that only with intention to accommodate some other person, the applicant is transferred before completion of the normal tenure.

5. I have heard the submissions on behalf of the applicant and the respondents. In order to justify the mid-term transfer the respondents have placed on record the various reports submitted by the Deputy Conservator of Forests, Bhandara so also the various reports submitted by the applicant. It is contention of the learned P.O. that disregarding the material provisions of the Forest Act, action was initiated by the applicant and without jurisdiction the applicant sentenced one person, confiscated the wood as well as the Vehicle used for the transportation. On the other hand, it is contended on behalf of the applicant that the Deputy Conservator of Forests though interfered in the order passed by the applicant, but in fact this Authority also sentenced the same person and also directed to recover the amount Rs.60,000/- for release of the Motor Vehicle used for the transportation. It is stand of the Forest Department that the action taken by the applicant was totally wrong because the Trees which were transported, were not scheduled trees and as the matter was covered under the provisions of the Maharashtra Land Revenue Act, consequently the orders were modified by the Deputy Conservator of Forests.

6. In the above circumstances, material issue arises whether the impugned order is in violation of the Section 4(4) & (5) of the Transfers Act, 2005. The Section 4(4) (ii) says that where the

Competent Authority is satisfied that the transfer is essential due to exceptional circumstances or special reasons, then after recording the special reasons and with prior approval of the next Higher Authority, the Government servant can be transferred before completion of the normal tenure. In the present matter it is submission of the learned P.O. that all the material which was available against the applicant was reported to the Transferring Authority and the Transferring Authority thereafter formed a view that it was necessary to initiate the departmental inquiry and thereafter proposal was forwarded to the next Higher Authority. Page no.100 is the copy of the proposal forwarded by the Chief Conservator of Forests, Nagpur to the Additional Principal Chief Conservator of Forests, Nagpur. After reading this proposal, it seems that it was noticed by the Chief Conservator of Forest that the applicant had issued illegal direction to impress hammer marks in violation of law, illegal orders were issued to seize the Timber though the Wood was not under the category mentioned in the scheduled Trees specified under the Maharashtra Felling of Trees (Regulation), Act, 1964 and illegally Shri Prabhakar Keshav Wanjari was forced to sit in the Forest Vehicle, he was carried there and arrest memo was not recorded. On the basis of this material, the Chief Conservator of Forest had formed the view that such conduct of the applicant was likely to defame the image of the

Forest Department in the Society and consequently he came to the conclusion that it was necessary to initiate the disciplinary action against the applicant and recommended for his transfer. It appears that on the basis of this, the note sheet was prepared, it was placed before the Civil Services Board. It appears that there was a Meeting of Civil Services Board on 17/6/2019 and after the Meeting it was decided to transfer the applicant as there were irregularities in the working of the applicant. The same material was placed before the Additional Principal Chief Conservator of Forest, Principal Chief Conservator of Forest and it was approved by both the authorities.

7. So far as the action of the applicant while seizing the Timber and Vehicle is concerned, arguments are advanced by both the sides, but here I would like to point out that scope of inquiry in this application is very limited. While deciding this O.A., this Tribunal cannot decide a fact whether any misconduct was committed by the applicant or not, it is a job of the Disciplinary Authority to decide the same. The scope of this inquiry is limited only to the extent whether the provisions of Sections 4 (4) & (5) of the Transfers Act, 2005 were complied with or not and whether there was administrative exigency or the action of the respondents is malafide.

8. After considering the circumstances, it seems that the Deputy Conservator of Forests reported that matter to the Chief

Conservator of Forests, in turn it was reported to the Higher Authorities and accordingly the matter was also placed before the Civil Services Board and after considering the entire material available against the applicant, unanimous decision was taken to transfer the applicant in contemplation of the disciplinary inquiry.

9. In case of **V.B. Gadekar Vs. State of Maharashtra (2008) 2 Mh.L.J., 640**, it is held that the transfer is an essential incidence of service, the provisions are regulatory and not prohibitory. The provisions under Section 4 of the Transfers Act, 2005 contemplates **whisking of depletion** in the Authority to make an exception to the normal tenure of three years of posting. It is further observed that every provision should be construed so as to achieve the object of the Act and certainly the larger public interest. The Government is the biggest employer and to regulate conditions of service, such provisions are made for the fairness in transferring the Government servants. In such situation where discretion is vested in the Authority, it is to be exercised uniformly and fairly and the Tribunal should not interfere, unless it is exercise in violation of the law or there is a malafide exercise of the discretion.

10. In the present case apart from the Deputy Conservator of Forest, all other Superior Authorities right upto the Principal Chief Conservator of Forests and the Civil Services Board have arrived to

the conclusion that there were circumstances for initiating the departmental inquiry against the applicant and it was necessary to transfer him. Under such circumstances, in absence of any express evidence as to malice, it is not suitable to interfere. I have already cleared that so far as the allegations made against the applicant and against the Deputy Conservator of Forests are concerned, this is not a stage to make any comment as to who was right and who was wrong.

11. In view of this discussion, I am of the view that it is not suitable to interfere in this matter. Hence, the following order –

**ORDER**

The O.A. stands dismissed with no order as to costs.

**Dated** :- 11/07/2019.

\*dnk.....

**(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 : 11/07/2019.  
and pronounced on

Uploaded on : 12/07/2019.