

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO. 482/2016.

Mohammad Salim Sajjad,
Aged about 57 years,
Occupation- Service,
R/o Sai Mauli Colony, Gondia.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Higher & Technical Education,
Mantralaya, Mumbai-32.
2. The Director,
Directorate of Technical Education,
3, Mahapalika Marg, CST, Mumbai.
3. The Principal,
Govt. Polytechnic, Gondia.
4. Prashant Prakash Jamnik,
Aged about 36 years,
Occupation- Service,
C/o Govt. Polytechnic, Sakoli,
Distt. Gondia.

Respondents.

Shri S.P. Palshikar, the learned counsel for the applicant.
Shri M.I. Khan, the Ld. P.O. for the respondents 1 to 3.
None for respondent No.4.

Coram:- The Hon'ble Shri S.S. Hingne,
Vice-Chairman.

Dated:- 5th January 2017.

ORDER

With the consent of both the parties, matter is heard
and decided at the admission stage.

2. The applicant, the Workshop Superintendent has challenged the order dated 12.7.2016 (A.1, P.16) by which he is transferred from Gondia to Gadchiroli.

3. Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for respondents 1 to 3. None appeared for respondent No.4.

4. The applicant was transferred to Gadchiroli vide order dated 24.7.2015 (A.3, P.24). He made representation on 26.7.2015 (A.4, P.28) to cancel the same. Thereafter he joined at Gadchiroli on 7.8.2015 (P.27). Vide order dated 1.12.2015 (A.5, P.29), the applicant was transferred to Gondia on request. He was relieved on 18.12.2015 (A.6, P.35) from Gadchiroli and joined at Gondia on 19.12.2015. In this factual backdrop, applicant's contention is that, he was not due for transfer since he was working at Gondia from 24.7.2015 only.

5. As against this, respondents' case is that the order is issued in compliance of the provisions of Section 4 of the Maharashtra Government Servants Regulation of Transfer and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as, "Transfer Act, 2005"). In support of the submission, learned P.O. has made the record of the approval available. From that record, it reveals that the proposal was made by the Director of Technical Education,

Mumbai on 16.5.2016. All the details of employees are given in the said proposal. Applicant's name is at Sr. No.3. Thereafter the matter was placed before the Civil Services Board. The Civil Services Board considered the cases and prepared a list and sent it for the approval of the competent authority. The Civil Services Board has mentioned that the aspects of the students' interest, difficulties of employees, vacant positions and reports of the Divisional Heads and administrative difficulties were considered and the proposal was submitted and list is prepared. The said proposal / list was placed for approval of the competent authority and for prior approval of the Hon'ble Chief Minister and the authorities have approved the same on 4.7.2016 and thereafter impugned transfers orders are issued. It is a general transfer order and several employees are being transferred after complying the provisions of the Transfer Act. Relying on this material, the learned P.O. submitted that no interference is called for in the order.

6. The learned counsel for the applicant vehemently urged that there was no proposal by the authority, matter was not placed before the Civil Services Board and there is no prior approval, of next higher authority. However, from the above glaring material on record, it is manifest that all these formalities were completed and the provisions of the Transfer Act are complied with and thereafter the

impugned transfer order is issued. The order specifically says that it is issued complying the provisions of the Transfer Act.

7. No doubt the order is issued in July 2016. However, sometimes when *en mass* transfer orders are to be issued and if the file is to be moved from one office to another and from one Department to other and the approval of the Competent Authority, Minister in-charge and the prior approval of the Hon'ble Chief Minister who is the immediately superior transferring authority, is also required, while doing this, sometimes delay is caused. In the case in hand, at the Director's level, process was started in May. Before that, he had to collect information from all the Divisional Heads. Needless to mention that sometimes due to administrative difficulties, delay can be caused. The provisions of the Act regulate the process with a view to carry out the process regularly. But sometimes if the time table could not be followed, it does not affect the entire process if rest of compliance is done and proposal was sent for approval of Civil Services Board and order is issued taking approval from the competent authority and with prior approval of next higher authority and immediately superior transferring authority. Moreover, strict compliance of the observation of time table may not be followed sometimes and on that ground, the entire process cannot be vitiated, if rest of the provisions are followed. The object of the legislature to lay down the

programme of the process is to regulate the matters and if some deviation can occur and due to administrative exigency the delay in observing the time limit can be ignored.

8. The applicant was transferred to Gondia on 24.7.2015 and was not due for transfer. But when the order is issued in compliance of the provisions of the Act referred to above and there is no material on record to attribute to any sinister motive to anybody and when the order is not tainted with malice to the applicant or when it is not shown that favour is shown to anybody, the order cannot be interfered with.

9. In this view of the matter, it is manifest that the case putforth by the applicant is devoid of merit. Consequently, the O.A. is rejected with no order as to costs.

(S.S.Hingne)
Vice-Chairman

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