

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 487/2020 (S.B.)**

Ghanshyam Krupashankar Pande,  
Aged about 57 years,  
R/o Khamgaon, Dist. Buldhana.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Department of Revenue and Forest,  
Mantralaya, Mumbai.
- 2) Chief Conservator of Forest,  
(Territorial), Amravati.
- 3) Range Forest Officer,  
Social Forestry Department,  
Sindkhed Raja, Dist. Buldhana.

**Respondents.**

---

**Shri N.R. Saboo, Smt. K.N. Saboo, Advocates for the applicant.**

**Shri M.I. Khan, P.O. for the respondents.**

---

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

**Dated :- 16<sup>th</sup> October, 2020.**

---

**JUDGMENT**

Heard Shri N.R. Saboo, learned counsel for the applicant  
and Shri M.I. Khan, learned P.O. for the respondents.

2. The applicant Forester, is challenging the impugned order  
of transfer dated 7/8/2020 mostly on the ground that he was not due

for transfer, therefore there is violation of the Section 4 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 the respondents have disobeyed the direction in G.R. dated 22/5/2017 and posted the applicant in Wildlife Project though the applicant was aged 57 years. The third contention is that the Civil Services Board did not consider the options of the applicant and mechanically transferred the applicant to Mangia Circle, Harisal Range Division at Gunamal Wildlife Forest in Chikhaldara Division. It is submitted that as material provisions of the G.R. dated 22/5/2017 were not complied, therefore, the transfer is arbitrary and not legal.

3. The respondents have submitted their reply and have justified the transfer. It is contention of the respondents that the G.R. dated 22/5/2017 is directory in nature and therefore there is no substance in the contention of the applicant that the respondents should not have posted him in the Wildlife Project. It is submission of the respondents that considering the administrative need there was no option, consequently, the applicant was posted in Mangia Circle, Harisal Range and there is no illegality in the order. During course of the argument, the learned counsel for the applicant submitted that the applicant recently undergone for angioplasty and this fact was brought

to the notice of the respondents. The learned counsel for the applicant invited my attention to his application addressed to the DFO, Social Forestry, Division, Buldhana dated 11/6/2020. In this letter it was specifically mentioned that on 20/4/2020 the applicant undergone angioplasty and he was advised three months rest. The applicant also produced the certificate issued by Dr. H.M. Mardikar regarding performance of angiography and angioplasty of the applicant. It is submitted that the respondents totally neglected the material provisions of the G.R. 9/4/2018 and pay no heed to the request made by the applicant and options submitted by the applicant. It is contention of the applicant that on 31/5/2020 three years tenure of the applicant was not completed and therefore, he was not due for transfer. I have perused the option form submitted by the applicant which is at page no.21 Annex-A-3. In the option form it was mentioned that the applicant joined as Forester at Sindkhedraja on 1/8/2017. As per the Govt. G.R. the tenure of the applicant was to be computed from August,2017 to 31/5/2020. Apparently it seems that three years tenure was not completed by the applicant at Sindkhedraja on 31/5/2020. It seems that options were given by the applicant and he requested to give posting at Khamgaon, Motala or Buldhana.

4. It is grievance of the applicant that in G.R. dated 6/8/2002 there was direction not to give posting to the Govt. servant who has completed 50 years in naxalite/ tribal area.

5. After reading G.R. dated 22/5/2017 in Clause no. (B) (1) (i) guidelines are given which is as under -

c- 1 (i) ouiky inkoj fu; D r h e i n k l u r h > k Y ; k l ] R ; k p s o ; 50 o " k k i \$ k k d e h v l y r j i F k e i n L F k k i u k n s r k a u k o u ; t h o ' k k [ k s y k i k / k k u ; n s ; k r ; k o s r l p 50 o " k k i \$ k k v f / k d o ; v l . k k & ; k a u k i k n s ' k d @ l k e k f t d o u h d j . k @ b r j f o H k k x k r i n k P ; k m i y C / k r s u d k j i n L F k k i u k | k o h - i j a r q 50 o " k k i \$ k k o ; v l . k k & ; k a u k i k n s ' k d o u f o H k k x k r i n L F k k i u k d j . k s a k u d k j d j k g . k k j u k g h -

6. After reading this clause, it seems that policy decision was taken by the Govt. not to post Forester in Wildlife Project if he has crossed age of 50 yrs., unless there exists some special reasons. In the present matter it seems that no exceptional reason is recorded by the respondents for giving posting to the applicant in the Wildlife Project, though the applicant had crossed 50 years of age and in past the applicant had worked in the Forest Department.

7. After reading G.R. dated 9/4/2018 it seems that directions were issued by the Government regarding conciliation and what should be its nature and what steps shall be taken by the Authority. As per the Stage no.4 (Vli k) specific directions and guidelines are issued what care should be taken. The condition no.3 is that while issuing

the transfer order, there should not be violation of the legal provisions. In stage no.3 it is specifically mentioned that the Civil Services Board shall be provided with the options given by the Govt. servant due for transfer. In the present case, the respondents have placed on record the minutes of the meeting which was held on 6/8/2020. In para-6 there is reference of Forest Guard Ku. Tejswini Thakre, Forester Shri P.N. Jadhao, Forest Guards Vijay Kamdi, Ashwin Mahalle and Ku. Jyoti Magar. Except Ku. Tejswini Thakre, all other were transferred on their own request. It appears that the case of the applicant was not examined by the Civil Services Board and similarly no attention was given to his illness, angioplasty and his advanced age and he was posted in Wildlife Project at a distance of 300 Kms. from his posting.

8. The learned counsel for the applicant has placed reliance on the Judgment in O.A. 586 of 2019 decided on 23/7/2020. Somewhat similar situation was examined by the M.A.T. Mumbai Bench, in para-7 following observations were made -

“(7) True, the transfer is an incident of service and Government servant has no right to ask for a particular post or to continue or retain at one place. However, where the Government of Maharashtra has taken policy by G.R. dated 9/4/2018 to effect transfers with counselling considering the options given by the applicant, then it is imperative on the part of respondents to act fairly and to consider the

choices given by the employee. Indeed, the very object of G.R. dated 9/4/2018 is to alleviate the difficulties and inconvenience likely to be faced by the employee, if he is posted at inconvenient place and to avoid further litigation”.

9. It is pertinent to note that for giving full effect to the Judgment delivered by the Hon'ble Apex Court in case of **T.S.R. Subramanian and ors. Vs. Union of India & Ors. (2013) 15 SCC 732**, the G.R. dated 9/4/2018 was issued by the Govt. of Maharashtra. As it was noticed by the Hon'ble Apex Court that the transfer orders were issued arbitrarily without considering the difficulties of the Govt. servant, therefore, direction was given to establish Civil Services Board and it was responsibility of the Civil Services Board to examine the difficulties and needs of the Govt. Servants due for the transfer. It must be noted that as G.R. is issued by the Govt. on 9/4/2018 it does not lie in the mouth of the respondents that the conciliation was mere formality not to be fulfilled. When options were given by the applicant and he has also informed the respondents about his illness and his age, then the respondents were bound to consider this and as far as possible the respondents were bound to give him convenient posting, if available. After reading the minutes of the Civil Services Board meeting dated 6/8/2020 it seems that single line is not written in this minutes that case of the applicant was specifically examined and it

was not possible to give posting to the applicant as per his options or there was a special need of the applicant in the Wildlife Project.

10. The applicant has filed the rejoinder and specifically contended that his case was not considered by the Civil Services Board and therefore there is violation of the G.R. dated 9/4/2018. It is further submitted that when the applicant submitted his options, all the posts claimed by him were vacant. On Khamgaon post one V.K. Kutarghare was posted, Shri V.P. Mhaske was posted at Motala. In the rejoinder, it is specifically mentioned that post at Jalgaon Jamod, Chikhli in Social Forestry and post of Forester were vacant.

11. After considering the submissions, it is not possible to accept that the Civil Services Board meeting was held as the guidelines in the G.R. dt/ 9-4-2018, on the other hand it seems that the meeting was empty formality and Civil Services Board at all not applied mind to the facts that the applicant was aged 57 years, recently he had undergone angioplasty and without considering options given by the applicant, other persons were posted on those posts and the applicant was transferred in Wildlife Project in contravention of the G.R. In view of this matter, I am compelled to say that the impugned order is arbitrary and malafide exercise of the jurisdiction, therefore, it is a fit case to quash the impugned order. In the result, I pass the following order –

**ORDER**

The impugned transfer order transferring the applicant from Sindkhedraja Range to Harisal Range dated 7/8/2020 is quashed and set aside so far as the applicant is concerned. The respondents are directed to give posting to the applicant within two weeks on any equivalent post in Buldhana District. No order as to costs.

**Dated** :- 16/10/2020.

\*dnk..

**(Anand 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 : 16/10/2020.

and pronounced on

Uploaded on : 21/10/2020..

\*