

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 490 of 2020 (S.B.)

Umakant Baburao Tol,
Aged about 54 years, Occ. Service,
R/o Kumbhare Layout Seloo, Distt. Wardha.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.
- 2) Sub Divisional Officer, Wardha
Sub Division Office, near Gandhi Chowk,
Civil Lines, Wardha.
- 3) Devendra Namdeorao Choudhari,
Aged about adult, Occ. Service,
R/o Somnathe Layout, Behind Agnihotri College,
near Gajanan Mandir, Tq. & Dist. Wardha.

Respondents.

Shri J.R. Kidilay, Advocate for the applicant.

Shri P.N. Warjurkar, P.O. for respondent nos.1&2.

None for respondent no.3.

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

Dated :- 03/12/2020

JUDGMENT

Heard Shri J.R. Kidilay, learned counsel for the applicant,
Shri P.N. Warjurkar, learned P.O. for respondent nos.1&2 and none
for respondent no.3.

2. The learned P.O. has filed reply on behalf of respondent nos.1&2. It is taken on record. Copy is served to the learned counsel for the applicant.

3. The impugned transfer is attacked on the ground that the applicant was not due for transfer, he was posted at Surgaon-Seloo vide order dated 29/5/2019. It is submitted that the applicant is transferred from Surgaon-Seloo to Shirpur-Deoli vide order dated 31/7/2020 and this order is illegal for the reason that there is no compliance of 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"). After reading the impugned transfer order, it seems that the applicant was transferred on his own request. It is contention of the applicant that he never requested the SDO, Wardha to transfer him to Shirpur-Deoli. The learned P.O. conceded that the applicant never made request for his mid-term transfer. It is contention of the respondents that after seeking permission of the Collector, the applicant was transferred. It is pertinent to note that the SDO, Wardha issued Corrigendum dated 3/8/2020 to the effect that the words "transfer on request" be deleted and it may be read as 'administrative ground'. It is contention of the respondents that there was complaint received

against the applicant and therefore on administrative ground the applicant was transferred.

4. It is not case of the respondents that after receiving complaint and report of Tahsildar, Seloo there was attempt to make any inquiry to find the substance in the complaint. It is nowhere mentioned that the disciplinary authority decided to initiate disciplinary action against the applicant and consequently the applicant was transferred. The law is settled that in lieu of the disciplinary inquiry a Government servant cannot be transferred. The applicant has placed reliance on the Government Circular dated 11/2/2015, in para-8 of the Circular guidelines are given as to what procedure should be followed when the complaints are received against a Government servant who has not completed normal tenure. It seems that the respondent no.2 without complying this, straightway issued the transfer order.

5. In view of these circumstances, I am compelled to say that the impugned transfer order is illegal, therefore, it is quashed and set aside. The respondent no.2 is directed to give posting to the applicant as before passing the impugned transfer order. The O.A. is disposed of accordingly. No order as to costs.

Dated :- 03/12/2020.

(Anand Karanjkar)
Member (J).

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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 : 03/12/2020.

Uploaded on : 04/12/2020.

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