

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION 514 OF 2016**

**DISTRICT : SANGLI**

Shri Satish Gangaram Ramugade, )  
Occ : Service, R/at : Sonkire, )  
Tal – Kadegaon, Dist-Sangli. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through the Secretary, )  
Cooperation Department, )  
Mantralaya, Mumbai. )
2. Divisional Joint Registrar, )  
Cooperative Societies, )  
Kolhapur Division, Kolhapur. )
3. Assistant Registrar, )  
Cooperative Societies, Kadegaon )  
Dist-Sangli. )
4. Shri M.B Kulkarni, )  
R/at: C/o: Office of Assistant )  
Registrar, Cooperative )  
Societies, Atpadi, Tal-Atpadi, )  
Dist-Sangli. )...**Respondents**

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Shri V. Kolekar, learned advocate for the Applicant.

Smt Archana B.K. learned Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

**DATE : 25.07.2016**

**ORDER**

1. Heard Shri V. Kolekar, learned advocate for the Applicant and Smt Archana B.K. learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant challenging his transfer by order dated 30.5.2016 from Kadegaon to Atpadi both in Sangli district on the ground that he had not completed his tenure at Kadegaon and there was no exceptional circumstances or special reasons for his mid-tenure transfer.

3. Learned Counsel for the Applicant argued that the Applicant was posted as Head Clerk in the office of Assistant Registrar, Cooperative Societies, at Kadegaon, Dist-Sangli, on 25.6.2012. First proviso to Section 3(1) of the Maharashtra Government Servants (Regulation of Transfers and Prevention of Delays in Discharge of

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Official Duties), Act, 2006 (the Transfer Act), provides that a Group 'C' employee is entitled to two full tenures of 3 years at an office. The Applicant was entitled to a tenure of six years, before he could be transferred from Kadegaon. Learned Counsel for the Applicant contended that the Applicant had not completed 6 years in Kadegaon when the Applicant was transferred to Atpadi (Dist-Sangli) by order dated 30.5.2016. Such mid-tenure order can only be passed under Section 4(5) of the Transfer Act only when special reasons exists for such a transfer. In absence of any such reasons, order dated 30.5.2016 qua the Applicant is illegal.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the Applicant had completed 3 years and 9 months as Head Clerk in Kadegaon. The Applicant was accordingly due for transfer after completion of his tenure of three years. All Class-III employees, who had completed 3 years were transferred by the Respondent no. 2, who is the competent authority as per the letter dated 8.5.2015 from Commissioner of Cooperation for transferring Group 'C' employee. The transfer was approved by the Civil Services Board in the meeting held on 30.5.2016.

5. The Respondent no. 2 claims that the powers to transfer Class-III employees have been delegated to

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him by letter dated 8.5.2015 by the Commissioner of Cooperation and Registrar of Cooperative Societies, Maharashtra State, Pune. However, copy of the said letter is not placed on record. As per the Table of Section 6 of the Transfer Act, Competent Authority to transfer Group 'C' employees is the Head of Department, who should be declared as such by the State Government. It is not clear whether the Divisional Joint Registrar is declared as Head of Department by the State Government under Section 7 of the Transfer Act. Second proviso to Section 6 provides for delegation of powers by the Competent Transferring Authority. If the Commissioner of Cooperation has been declared as Head of Department, he can delegate powers to his subordinate like the Respondent no. 2 to transfer Group 'C' employees. Whether letter dated 8.5.2015 has been issued under second proviso to Section 6 cannot be ascertained. Even accepting for the sake of arguments, that the Respondent no. 2 is the Competent Transferring Authority for transfer of Class-III (Group 'C') employees, he has to follow the provisions of the Transfer Act. There is no dispute that the Applicant is a Group 'C' employee and as per first proviso to Section 3(1) of the Transfer Act is entitled to a tenure of a total of six years. The contention of the Respondent no. 2 that the Applicant had completed his tenure is not correct. As the Applicant had not completed his tenure, exceptional circumstances or special reasons for curtailing his tenure should have been mentioned in

the impugned transfer order dated 30.5.2016. However, the Respondent no. 3 has admittedly not complied with the provision of Section 4(5) of the Transfer Act which is mandatory, if a Government employee is to be transferred before completion of his tenure. In the present case, order dated 30.5.2016 qua the Applicant has been issued in violation of Section 4(5) of the Transfer Act and therefore, cannot be sustained.

6. Having regard to the aforesaid facts and circumstances of the case, the order dated 30.5.2016 issued by the Respondent no. 2 qua the Applicant is quashed and set aside. The Respondent no. 3 will post the Applicant back to Kadegaon within a period of two weeks from the date of this order. This Original Application is allowed accordingly with no order as to costs.

Sd/-

(Rajiv Agarwal)  
Vice-Chairman

**Place : Mumbai**

**Date : 25.07.2016**

**Dictation taken by : A.K. Nair.**