

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 525 of 2020 (S.B.)

Avinash S/o Narayanrao Dashpute,
Aged about 55 years, Occ. Service,
R/o Plot No.1, Shree Gajanan Apartments,
Shiv Chaya Colony, Sutgirni Road,
Tq. & Dist. Amravati.

Applicant.

Versus

- 1) Deputy Director of Land Records,
Amravati Division, Amravati.
- 2) Sub Divisional Officer, Amravati,
Tq. and Dist. Amravati.
- 3) State of Maharashtra,
through Ministry of Revenue and Forests,
Mantralaya, Mumbai-32.

Respondents.

Shri A.S. Shukla, Advocate for the applicant.
Shri A.M. Khadatkhar, P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated :- 13/12/2021.

JUDGMENT

Heard Shri D.R. Khapre, Id. counsel holding for Shri A.S. Shukla, Id. counsel for the applicant and Shri A.M. Khadatkhar, Id. P.O. for the respondents.

2. The applicant was appointed on the post of Land Measurer/ Clerk-Typist in the office of Deputy Director of Land Records, Amravati on 20/10/2008. The applicant was transferred to the office of Special Deputy Superintendent of Land Records and

Enquiry Officer, Amravati on 4/6/2014. The applicant was deputed to the office of respondent no.2, the Sub Divisional Officer (SDO), Amravati on 5/3/2015. As per the deputation order, he was deputed until further orders.

3. The applicant requested to the respondent no.1 not to relieve him as per transfer order dated 10/8/2020. The respondent no.2 recommended to respondent no.1 not to transfer the applicant looking to his health ground.

4. The application is opposed by the respondents by filing reply-affidavit. It is submitted that the deputation was until further period. The applicant has completed five years in the office of respondent no.2. He is transferred to Murtizapur, Dist. Akola. The said transfer order is under challenge in this O.A.

5. Heard learned counsel for applicant. He has pointed out Judgment of Hon'ble Apex Court in case of **Union of India through Govt. of Pondicherry & Ano.Vs. V. Ramkrishnan & Ors., (2005) 8 SCC,394** and submitted that the impugned transfer order is malafide, because, the recommendation of respondent no.2 is not considered by the respondent no.1.

6. Heard learned P.O. He has submitted that the applicant was on deputation for a period of five years. As per the deputation order, the deputation was until further orders. The learned P.O.

submitted that there is no malafide on the part of respondents. Hence, the O.A. is liable to be dismissed.

7. There is no dispute that the applicant was deputed in the office of SDO, Amravati, as per deputation order dated 5/3/2015. The applicant has completed five years in the office of respondent no.2. The respondent no.2 recommended to respondent no.1 to consider the grievances of applicant.

8. It is contention of the applicant that the recommendation of respondent no.2 i.e. SDO, Amravati is not considered by the respondent no.1 and therefore it is malafide transfer order. It is pertinent to note that there is nothing on record to show that any post was vacant at the requested place by the applicant. There is also no such submission on the side of applicant. As per Section 3 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as "Transfers Act,2005") the normal period of transfer is three years. Nothing is pointed out that the transfer order is illegal in view of the Transfers Act,2005. As per the provisions of Section 3 of the Transfers Act,2005, the applicant was due for transfer. The applicant is transferred from Amravati to Akola District which is adjoining District and on the railway route. The documents filed by the applicant show that he is getting treatment of various

ailments in the Government Hospital and also in the Government Medical College which is also available at Akola. The applicant cannot say that the transfer order is malafide. Nothing on record to show that the transfer order is illegal in view of the provisions of the Transfers Act,2005. The applicant was on deputation, he cannot claim as of right to continue him on the said post of deputation forever. The Judgment cited by applicant in case of Union of India through Govt. of Pondicherry & Ano.Vs. V. Ramkrishnan & Ors., (2005) 8 SCC,394 is not applicable in the case in hand. On the other hand, the Hon'ble Apex Court has made it clear that it is not a legal right of the employee who is on deputation to continue on that post.

9. The learned counsel for the applicant has submitted that the applicant has filed affidavit and as per his submission, the SDO, Amravati not paid salary from August,2020 to till date. The applicant is also not relieved by the respondent no.2, SDO, Amravati.

10. In that view of the matter, the O.A. is disposed off. The respondent no.2 may consider the representation of the applicant, if he files in respect of the salary from August,2020. No order as to costs.

Dated :- 13/12/2021.

**(Justice M.G. Giratkar)
Member (J).**

*dnk.

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 : 13/12/2021.

Uploaded on : 14/12/2021.