

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 548 OF 2021**

**DISTRICT:- BEED**

Rajendra S/o Madhukar Gunjal,  
Age 41 years, Occ. Service  
(Senior Clerk), R/o 13/C-01 Sitai,  
Ashwini Co-operative Housing  
Society, Bhanudas Nagar,  
Dharur Road, At Pos Chanai,  
Tq. Ambajogai, Dist. Beed.

**APPLICANT.**

**V E R S U S**

1. The State of Maharashtra,  
Through its Secretary,  
Medical Education Department,  
Mantralaya, Mumbai-32.
2. The Directorate of Medical  
Education and Research,  
Mumbai, Through its Director,  
4<sup>th</sup> Floor, Government Dental  
College and Hospital,  
Saint George's Hospital,  
P.D'Melo Road, Fort,  
Mumbai 400 001.
3. The Dean, Swami Ramanand Teerth,  
Rural Government Medical  
College, Ambajogai,  
Tq. Ambajogai, Dist. Beed.
4. Abhay Chandrakant Pande,  
Age : Major, Occ. Service,  
Through Administrative Officer,  
Swami Ramanand Teerth,  
Rural Government Medical  
College, Ambajogai,  
Tq. Ambajogai, Dist. Beed.

**.. RESPONDENTS.**

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APPEARANCE : Shri A.T. Jadhavar, learned counsel for  
the applicant.

: Shri I.S. Thorat, learned Presenting  
Officer for the respondent authorities.

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**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN**

**DATE : 20.04.2023**  
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**ORAL ORDER**

Heard Shri A.T. Jadhavar, learned counsel for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondent authorities.

2. The applicant has questioned the orders dated 9.8.2021 and 8.12.2021, whereby the applicant has been transferred from Swami Ramanand Teerth Rural Government Medical College and Hospital, Ambajogai to Vilasrao Deshmukh Government Medical College at Latur. The applicant is presently in the cadre of Senior Clerk. The grievance of the applicant is that though he has genuine reason for seeking retention at Ambajogai and though all these facts were brought to the notice of the higher authorities, without considering the said reasons the applicant has been transferred at Latur. It is the contention of the applicant that he himself is a heart patient and additionally his father and mother both are suffering from various ailments and required day to day care.

3. The respondents have supported the order of transfer stating that the applicant is working at Ambajogai in S.R.T.R. Medical College and Hospital since more than 19 years and, as such, was overdue and that is the reason he has been transferred.

4. Learned counsel appearing for the applicant submitted that the respondents are adopting discriminatory practices and though the persons working in the same cadre of Senior Clerk, who are at one station i.e. at Ambajogai for last about 23 to 24 years, have not been transferred and the applicant, who was on certain genuine grounds praying for his retention at Ambajogai, has been transferred to Latur. Learned counsel submitted that in the Original Application the applicant has taken specific plea in this regard and in the rejoinder affidavit filed, the name of such employees have also been mentioned by the applicant. Learned counsel submitted that Senior Clerk namely V.G. Wanve, Damodar Bhosale, Smt. A.T. Thorat, R.M. Sarkate & M.D. Kadam, are the persons, who are stationed at Ambajogai for more than 24 years and they have not been transferred.

5. Learned Presenting Officer submitted that along with the applicant two other employees namely Smt. A.T. Thorat & M.D. Kadam, whose names are mentioned by the applicant have also been transferred respectively at Latur and Nanded and both of them have joined at their respective places. Learned Presenting Officer submitted that allegation made by the applicant receiving discriminatory treatment, therefore, is without any substance. Learned Presenting Officer further pointed out that the post on which the applicant was working at Ambajogai has already been filled in

since respondent No. 4 has been transferred to the said post and he has also taken charge of the said post.

6. I have duly considered the submissions advanced by the learned counsel appearing for the applicant and learned Presenting Officer.

7. At the outset it has to be mentioned that the transfer is an incident of service and the Government employee shall not raise any grievance if he has been transferred after particular period spent at one station or on one post, unless there are some very serious and genuine reasons. In the present matter the grievance of the applicant is that while he was hospitalized and has applied for sick leave, in the meanwhile period, he has been transferred without seeking his choices for place of posting. It is his further grievance that still there are three employees who are at one station for about 25 years but are not transferred and he has been transferred. It is his further contention that his genuine difficulties have not been considered.

8. It is not in dispute that the applicant had been at Ambajogai for about 20 years. As such, in fact he shall not have any complaint if he has been transferred to Latur. As such it is difficult to say that the respondents have gone wrong in making transfer of the applicant from the said place. There is however, no explanation from the respondents why some of the employees namely V.G. Wanve, Damodar Bhosale, R.M. Sarkate, who are at Ambajogai for about 25

years, have not been transferred. Apart from the aforesaid fact, there is no specific reply from the respondents why the representation of the applicant is not considered.

9. As has been contended by the applicant he is suffering from heart disease and has also having responsibility to take care of his ailing old aged parents. It cannot be disputed that 'transfer of the employees' is the subject within the domain of the Government and the Courts or Tribunals ordinarily shall not cause interference in the orders of transfers, unless it is noticed that there is arbitrary exercise of such power or grave injustice has been caused to the Government servant because of such order. It further appears to me that in respect of any such order there shall not be any scope to say that discriminatory practice is adopted. It further appears to me that when any Government servant makes a representation pertaining to his transfer if the reasons assigned in the said representation are genuine, they must be considered.

10. In the present matter as has been argued on behalf of the applicant while he was in hospital the options were asked and on the next date the transfer orders were issued. There is further nothing on record to show whether the representation of the applicant was considered or not. Applicant has admittedly resumed his duties at the transferred place and has been working there since then. Learned Counsel for the applicant has come out with the submission that one post is likely to be vacant at Ambajogai at the end of June,

2023 and in the circumstances has prayed for direction against the respondents to transfer the applicant to the said post. It, however, may not be possible for this Tribunal to give any such mandatory direction to the respondents, for the reason as I mentioned earlier that it is the prerogative of the respondents. The Tribunal at the most can direct the respondents to consider the representation submitted by the applicant having regard to the vacancy position, and the reasons assigned by the applicant. In the circumstances, the present O.A. is disposed of with the direction to the respondents that they shall consider the request of the applicant for his transfer at the vacant post at Ambajogai on its merit and take suitable and conscious decision in that regard.

11. O.A. stands disposed of with the observations as aforesaid. No costs.

**VICE CHAIRMAN**

O.A.NO.548-2021 (SB)-2023-HDD-transfer