

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 616 OF 2017 (S.B.)

Shri Prashant Haribhau Lambade,
Aged about : 39 years, presently working at Jodmoha, Th. Kalamb,
Distt. Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra,
Through the Secretary,
Forest Department,
Mantralaya, Mumbai-32.
- 2) The Principle Chief Conservator of Forest,
Nagpur.
- 3) The Chief Conservator of Forest
(Territorial), Yavatmal.
- 4) The Dy. Conservator of Forest (Territorial),
Yavatmal Dn, Yavatmal.

Respondents

Smt. K.N.Saboo, the Id. Adv. for the applicant.

Shri H.K.Pande, the Id. P.O. for the respondents.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGMENT

(Delivered on this 22nd day of March, 2018)

Heard Smt. K.N.Saboo, the learned counsel for the applicant and Shri H.K.Pande, the learned P.O. for the respondents.

2. The applicant after joining on the post of Forester and on completion of training during the period from 2004 to 2005 at Chandrapur was posted in Melghat area. His tenure from April 2005 to 24/07/2009 was at Koktu in Tahsil Chikhaldara under Dhargad Range. These areas are more sensitive and have been notified as a tribal area. After working for four years in the Tribal Area, the applicant was again posted at Bhawai in Tahsil Chikhaldara which is also a Tribal area.

3. The applicant filed representation on 30/03/2016 and 16/02/2017 and requested the respondent no. 1 for his transfer out of Tribal area. However, vide order dated 11/08/2017, the applicant had again been posted at Jodmoha to the office of Range Forest Officer (Social Forestry), Dharni which is also a Tribal area. It is therefore, stated that the impugned order vide which the applicant has been posted recently at Dharni is against the mandatory provisions. The applicant is suffering great hardship. Recently his wife has undergone surgery due to fracture on leg and his son is taking education at Yavatmal. It is, therefore, prayed that the impugned order dated 11/08/17 issued by the respondent no. 1 be quashed and set aside and the applicant be allowed to continue at the present posting with further directions to allow him to submit

representation for choice posting as per the Government Resolution dated 06/08/2002.

4. The respondents admitted the tenure of the applicant in the tribal area prior to the date of impugned order of transfer. It is also admitted that the applicant had sought transfer from Yavatmal to Amravati circle due to his family problems. His application was kept before the State Level Civil Services Board on 08/06/2017 but at that time the post of Range Forest Officer (T) Chandur Railway as claimed by the applicant, was not vacant and, therefore, the applicant has been transferred in the Social Forestry Wing in Amravati District. It is further stated that there is a target of 50 Crore plantation and the Social Forestry Wing of the Forest Department has played a vital role in the said target and, therefore, the experienced field officers were required.

5. The Id. counsel for the applicant has relied on the Judgment in Writ Petition No. 2700/2013, but the respondent have stated that the said Judgment is not applicable to the applicant.

6. On going through the arguments put forth by the Id. counsel for the respective parties, it seems that the applicant is relying on the G.R. dated 06/08/2002 as regards appointment of the employees in tribal/ naxalite affected area and the guidelines issued by the Government through said G.R. Perusal of the said G.R. shows that those Officers who have completed their tenure in tribal/ naxal affected area,

shall be given some facilities and concessions and they are also entitled to claim choice posting after their tenure is completed.

7. The Id. counsel for the applicant has also placed reliance on the Judgment in Writ Petition No. 2700/2013 delivered by Hon'ble High Court, Bombay, Bench at Nagpur on 17/01/2014 and in the said Judgment the Hon'ble High Court has observed as under:-

"We therefore clarify the position accordingly and respondent no. 2 to see that employees, who have put in more than three years of service in tribal/ naxalite areas, are transferred out of said areas as the employees who have put in three years service earlier in such areas, cannot be sent back to that areas. Employees continuity there in excess of three years cannot be made to suffer. Those who have never worked in tribal/ naxal prone areas need to be posted there at least once in their service."

8. Admittedly, the applicant had been posted again and again in the tribal area and his representations have not been considered in a proper perspective. There is no reason as to why the applicant shall be again and again posted in the tribal area and there is nothing on the record to show that decision was taken to post the applicant in the interest of administration. Merely saying that some programme of plantation was to be undertaken for which the applicant services was required will not help the respondent authorities to justify the order of transfer. The impugned order of transfer was mid-term and no reason is given as to why the provisions of G.R. dated 06/08/2002 are not followed.

9. During the pendency of the O.A., the applicant has also filed on representation on 19/01/2018. It is stated that one post at Warud or Morshi Range in Amravati Forest Division is lying vacant and the applicant can be accommodated on the said post. The respondents may consider the applicant on said post, if it is lying vacant.

10. From the discussion in foregoing paras, it will be clear that the impugned order of transfer whereby the applicant had been transferred from Jodmoha to Dharni is it legal and improper and it is against the provision of G.R. dated 06/08/2002. Since the applicant had earlier worked in the tribal area for a considerable long period, his request for transfer on the choice posting should have been considered. Hence the following order:-

ORDER

1. The O.A. is allowed.
2. The impugned order dated 11/08/2017 issued by respondent no. 1 (Annexure-A-4) whereby the applicant has been transferred from Jodmoha, District Yavatmal to the office of Range Forest Officer (Social Forestry), Dharni is quashed and set aside. The applicant may be allowed to work at Jodmoha i.e. at the post prior to his transfer vide impugned order.

3. The respondent no. 1 may consider his transfer as per the representation dated 30/03/2016 (Annexure-A-1), 16/02/2017 (Annexure-A-2) or as per representation dated 19/01/2018 on its own merits and may pass necessary order as early as possible and in any case at the time of Annual General Transfers of 2018.
4. No order as to costs.

Dated :- 22/03/2018

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**(J.D. Kulkarni)
Vice-Chairman (J).**