

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 639 OF 2017 (S.B.)

Ku. Harsha Balkrushna Bhongare,
Aged -30 years, Occupation – Service,
C/o Rajesh Manohar Sultane, At post
Ridhona, Tq. Balapur, Dist. Akola.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.
- 2) Additional Commissioner,
Tribal Development Department,
Amravati, Behind C.P.Office,
Amravati, Tq. And Dist. Amravati.
- 3) Project Officer, Integrated Tribal Development Project,
Pusad Division, Tq. Pusad,
Dist. Yavatmal.
- 4) Head Master, Government Ashram School (English Medium)
Govind Nagar, Pusad, Tq. Pusad,
Dist. Yavatmal.
- 5) Rajni P. Pise,
Age – 35 Yrs., Occ. Service,
R/o Govind Nagar, Pusad, Tq. Pusad,
Dist. Yavatmal.

Respondents

Shri A.J.Kadu, the Id. counsel for the applicant.

Shri M.I.Khan, the Id. P.O. for the respondent nos. 1 to 4.

Shri S.S.Dhengale, the Id. counsel for the respondent no. 5.

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

JUDGMENT

(Delivered on this 21st day of December, 2017)

Heard Shri A.J.Kadu, the learned counsel for the applicant and Shri M.I.Khan, the learned P.O. for the respondent nos. 1 to 4. Shri S.S.Dhengale, the learned counsel for the respondent no. 5.

2. The applicant was appointed on the post of Lady Superintendent in the Government Ashram School, Musalwadi, Tq. Malegaon, Dist. Washim in the year 2011. Vide order dated 25/05/2017, the applicant was transferred from Washim to the Government Ashram School (English Medium) Pusad, Dist. Yavatmal i.e. respondent no. 4 school. The applicant joined at Pusad on 10/08/2017 and was doing her duty honestly. All of a sudden, vide order dated 21/08/2017, the applicant has been transferred from Pusad to Government Ashram School at Harshi. The said impugned order has been challenged in this O.A. The applicant submits that the impugned order of her transfer to Harshi is mid-term and mid-tenure and it has been issued only with an intention to favour the respondent no. 5. The respondent no. 5 was serving at Pusad and was overdue for transfer. She was in fact transferred and in her place and the applicant was posted. However, the respondent authorities manipulated the record illegally and allowed the

respondent no. 5 to rejoin at Pusad. The respondent no. 2 justified the transfer order of the applicant and submitted that the transfer of the applicant was in the interest of administration. It is stated that the applicant cannot insist for her posting at Pusad only and the impugned order is as per the provisions of the **Maharashtra Government Servants (Regulation of Transfers and Prevention of Delay in Discharge of Official Duties) Act, 2005.**

3. From the facts pleaded and the documents on record, it will be clear that the applicant was earlier transferred to Pusad vide order dated 25/05/2017. She was transferred from Government Ashram School, Musalwadi, Tq. Malegaon, Dist. Washim to Government Ashram School (English Medium) Pusad, Dist. Yavatmal. It seems from the record that the applicant has joined at Pusad on 10/08/2017, since she was relieved late i.e. on 21/07/2017. The Headmaster of the school at Musalwadi relieved her on 09/08/2017. The documents in this behalf are placed on record at P.B., Pg. No. 16 and 17. Immediately on being relieved by Headmaster on 09/08/2017, the applicant joined at Pusad on 10/08/2017. The applicant has also placed on record the Attendance register, from which it seems that the applicant had joined at Pusad on 10/08/2017 and worked there continuously thereafter. The respondent no. 4, Mrs. Pise was relieved, but thereafter the impugned order dated

21/08/2017 has been issued where by the applicant has been transferred from Pusad to Harshi. It clearly shows that the applicant has worked at Pusad only for a period from 10/08/2017 till the order dated 21/08/2017 was issued and thereafter the impugned order has been issued. The impugned order dated 21/08/2017 is an order of transfer of the applicant and the respondents could not justify for issuance of such order. On the contrary, it seems that the said order must have been issued only with intention to accommodate the respondent no. 5 i.e. Smt. Pise. From the record, it seems that Smt. Pise, was in fact, relieved and it is not known as to how she was allowed to join again. The Attendance register at P.B., Pg. No. 43 shows that the possibility that respondent no. 5 might have been allowed to sign register subsequently, cannot be ruled out. Even otherwise there is absolutely no reason as to why the applicant's transfer at Pusad was cancelled and she was posted at Harshi. Merely saying that the order of Smt. Kute and Pise was cancelled due to administrative exigency, will not meet the requirement. The respondents could not place on record any documentary evidence to show as to whether impugned order of transfer of the applicant to Harshi, was, in the interest of administration and whether her earlier order to Pusad was also cancelled for administrative exigency. It is also not known as to whether both the orders were placed before competent authorities. In any case the impugned order of transfer of the applicant from Pusad to

Harshi is mid-term and mid-tenure and no justifiable reasons are given for passing such order. The said order is therefore, against the provisions of **Maharashtra Government Servants (Regulation of Transfers and Prevention of Delay in Discharge of Official Duties) Act, 2005** and as such needs to be quashed and set aside. Hence the following order:-

ORDER

1. The O.A. is allowed.
2. The impugned order dated 21/08/2017 issued by respondent no. 2 (Annex-A-1) is quashed and set aside. The respondents are directed to allow the applicant to work as a Lady Superintendent in the Government Ashram School (English Medium), Pusad, Dist. Yavatmal.
3. No order as to costs.

Dated :-21/12/2017

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

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