

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 648/2019 (S.B.)

Vishal Kisan Borhade,
Aged about 38 years,
Occ. Service, Friends Colony, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
through its Principal Secretary,
Forest Department, Mantralaya,
Mumbai-32.
- 2) The Principal Chief Conservator of Forest,
M.S. Van Bhavan, Ramgiri Road, Civil Lines,
Nagpur.
- 3) The Deputy Conservator of Forests (Territorial),
Nagpur Circle, Civil Lines, Nagpur.

Respondents.

S/Shri D.M. Kakani, G.K. Bhusari, Advocates for the applicant.

Shri A.M. Ghogre, P.O. for the respondents.

WITH

ORIGINAL APPLICATION No. 652/2019 (S.B.)

Shrikant Subhash Pawar,
Aged about 29 years, Occ. Service,
R/o Sakoli, District Bhandara.

Applicant.

Versus

- 1) State of Maharashtra,
through its Principal Secretary,
Forest Department, Mantralaya,
Mumbai-32.
- 2) The Principal Chief Conservator of Forest,
M.S. Van Bhavan, Ramgiri Road, Civil Lines,
Nagpur.

- 3) The Additional Principal Chief Conservator of Forest (Personnel), M.S., Van Bhavan, Ramgiri Road, Civil Lines, Nagpur.

Respondents.

**S/Shri D.M. Kakani, G.K. Bhusari, Advocates for the applicant.
Shri A.M. Ghogre, P.O. for the respondents.**

WITH

ORIGINAL APPLICATION No. 653/2019 (S.B.)

Sahebrao Pandurang Pawar,
Aged about 56 years,
Occ. Service, R/o Sakoli, District Bhandara.

Applicant.

Versus

- 1) State of Maharashtra,
through its Principal Secretary,
Forest Department, Mantralaya,
Mumbai-32.
- 2) The Principal Chief Conservator of Forest,
M.S. Van Bhavan, Ramgiri Road, Civil Lines,
Nagpur.
- 3) The Additional Principal Chief Conservator
of Forest (Personnel), M.S., Van Bhavan,
Ramgiri Road, Civil Lines, Nagpur.

Respondents.

**S/Shri D.M. Kakani, G.K. Bhusari, Advocates for the applicant.
Shri A.M. Ghogre, P.O. for the respondents.**

WITH

ORIGINAL APPLICATION No. 654/2019 (S.B.)

Gajanan Pundlikrao Bobade,
Aged about 52 years, Occ. Service,
R/o near Agrasen Bhavan, Ram Nagar,
Amravati Road, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
through its Principal Secretary,
Forest Department, Mantralaya,
Mumbai-32.
- 2) The Principal Chief Conservator of Forest,
M.S. Van Bhavan, Ramgiri Road, Civil Lines,
Nagpur.
- 3) The Additional Principal Chief Conservator
of Forest (Personnel), M.S., Van Bhavan,
Ramgiri Road, Civil Lines, Nagpur.

Respondents.

**S/Shri D.M. Kakani, G.K. Bhusari, Advocates for the applicant.
Shri A.M. Ghogre, P.O. for the respondents.**

WITH**ORIGINAL APPLICATION No. 655/2019 (S.B.)**

Suhas S/o Genbhau Badhekar,
Aged about 35 years, Occ. Service,
R/o Civil Lines, Wardha, Tq. & Dist. Wardha.

Applicant.**Versus**

- 1) State of Maharashtra,
through its Principal Secretary,
Forest Department, Mantralaya,
Mumbai-32.
- 2) The Principal Chief Conservator of Forest,
M.S. Van Bhavan, Ramgiri Road, Civil Lines,
Nagpur.
- 3) The Additional Principal Chief Conservator
of Forest (Personnel), M.S., Van Bhavan,
Ramgiri Road, Civil Lines, Nagpur.

Respondents.

**S/Shri D.M. Kakani, G.K. Bhusari, Advocates for the applicant.
Shri A.M. Ghogre, P.O. for the respondents.**

**Coram :- Hon'ble Shri Anand Karanjkar,
Member (J).**

Date of Reserving for Judgment : 27th February, 2020.

Date of Pronouncement of Judgment : 13th April, 2020.

COMMON JUDGMENT

(Delivered on this 13th day of April, 2020)

Heard Shri G.K. Bhusari, learned counsel for the applicants and Shri A.M. Ghogre, learned P.O. for the respondents.

2. All the applications involved common question of facts and law, therefore, they are decided by this common order.

3. The applicants are serving as Assistant Conservator of Forests (ACF) on various posts in the Vidarbha Region. The applicants are challenging their transfers vide order dated 21/8/2019 on the ground that their transfers are mid-term transfer and the applicants were not due for transfers, therefore, the order dated 21/8/2019 is in violation of the Section 4 (4) & (5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short "Transfers Act,2005"). The second contention of the applicants is that the applicants have worked in tribal area and again they are transferred to tribal/naxalite area and it is in violation of the G.Rs. dated 11/2/2015 and 6/8/2002. In O.A. Nos. 653/2019 and 654/2019, it is contended

that the applicants have completed the age of 56 years and 52 years respectively and they are posted in wild life forest units and therefore, their transfers are illegal. It is submitted by the applicants that there was no administrative exigency for the mid-term transfer and therefore the impugned order dated 21/8/2019 be quashed.

4. The respondents have filed reply and resisted the applications. It is contended by the respondents that all the applicants are Group-A cadre officers and their services are transferable through the entire State. It is specific contention of the respondents that there was meeting held by the Hon'ble Chief Minister of Maharashtra and direction was given to fill the vacant posts in the naxalite area in Vidarbha Region immediately and consequently in pursuance of this decision taken on 24/7/2019, the applicants are transferred. It is denied that there was no administrative exigency to transfer the applicants. It is also denied that the transfer orders are malafide exercise of jurisdiction.

5. During the course of arguments it is submitted by the applicants that after transfer of the applicants, 15 RFO are promoted on the posts of ACF and they are given posting out of tribal area/naxalite area. It is submitted by the applicants that this subsequent order dated 16/09/2019 giving posting to the newly promoted officers out of tribal/naxalite area is in fact violation of the G.R. as there is a

direction in the G.R. to post newly promoted officers in the naxalite area. It is submitted that the exercise of jurisdiction in transferring the applicants is not fair and only for giving suitable posting to the newly promoted officers, the applicants were transferred.

6. I have perused the minutes of the meeting dated 24/7/2019. The administrative decision was taken in the meeting which was presided over by the Hon'ble Chief Minister that the vacant posts in the Gadchiroli, Chandrapur and Gondia districts in the Cadre A to D be filled in before 15/8/2019. Thus it seems that administrative decision was taken by the Government to fill the vacant posts in the districts of Gadchiroli, Chandrapur and Gondia before 15/8/2019 and consequently the impugned order dated 21/8/2019 was issued and the applicants were transferred. As this decision was taken by the Forest Department to fill vacant posts as per the direction issued by the Minister of Forest Department and the Hon'ble Chief Minister, therefore, it is not possible to accept that there was no administrative exigency for transferring the applicants.

7. Once it is accepted that that the posts were lying vacant in Gadchiroli, Chandrapur and Gondia districts and it was necessary to fill those posts immediately, then it is difficult to accept that there was no administrative exigency to issue the transfer order. In view of this background, I do not see any merit in the contention that the

impugned transfer order dated 21/8/2019 is in violation of the Section 4 (4) & (5) of the Transfers Act,2005.

8. So far as the contention of the applicants that the newly promoted officers are posted outside tribal/naxalite area is concerned, I do not see any merit in this, because this conditional promotion order was issued on 16/9/2019. It must be remembered that there was a specific direction given by the Government to fill the vacant posts before 15/8/2019. In the order dated 16/9/2019 it is specifically mentioned that the promotion order was issued subject to the decision in the SLP Petition No.28306/2017. The learned P.O. submitted that the Government was in dilemma regarding issuing promotion orders as the SLP was pending before the Hon'ble Supreme Court. It is submitted that after seeking legal advice, the order dated 16/9/2019 was issued. In the background as pointed out, it is not possible to accept that the order dated 21/8/2019 is malafide exercise of jurisdiction.

9. It is contention of the applicants that the applicants are transferred from one tribal area to another tribal/naxalite area and the applicants in O.A. Nos. 653/2019 and 654/2019 are aged 56 years and 52 years respectively and in violation of the G.R., they are transferred and posted in wild life unit, therefore, their transfers are in violation of the law. In this regard, I would like to point out that as the

posts were lying vacant in Gadchiroli, Chandrapur and Gondia districts and there was specific direction to fill the posts immediately, consequently, there was no choice, but to fill the posts by transferring some officers and accordingly the applicants were transferred. So far as the contention of the applicants in O.A. Nos. 653/2019 and 354/2019 on the ground of their age is concerned, the applicants may make representation and request the Government to give them posting out of the wild life unit / tribal unit /naxalite unit, as the case may be, but it is not possible to accept that the transfer order dated 21/8/2019 is illegal or unfair. Hence, the following order -

ORDER

All the O.As. stand dismissed. Liberty is given to the applicants to make representation to the respondents for suitable posting during the general transfers of the year 2020. No order as to costs.

Dated :- 13/04/2020.

*dnk.

(A.D. Karanjkar)
Member (J).

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 : 13/04/2020.
and pronounced on

Uploaded on : 16/04/2020.