

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 656 of 2021 (SB)

Mrs. Pradnya Tarkeswar Golghate,
Aged about 46 years,
R/o D-3, Shree Ganga Apt.,
Sitabuldi, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary, Department of Agriculture,
Animal Husbandry Dairy Development & Fisheries,
Mantralaya, Mumbai-32.
- 2) Commissioner (Agri.),
Agriculture Commissionerate,
Maharashtra State, Pune.
- 3) Joint Director of Agriculture,
Office of Divisional Agriculture Joint Director,
Administrative Building, Civil Lines, Nagpur.
- 4) Milind Bhaduji Shende,
Presently working as District Superintendent
Agriculture Officer, Nagpur.

Respondents.

Shri N.R. Saboo and Mrs. K.N. Saboo, Advs, for the applicant.

Shri H.K. Pande, P.O. for respondent nos.1 to 3.

Shri Bharat Kulkarni, learned counsel for respondent no.4.

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

Date of Reserving for Judgment : 24th February, 2022.

Date of Pronouncement of Judgment : 1st March, 2022.

JUDGMENT

(Delivered on this 1st day of March, 2022)

Heard Shri N.R. Saboo, Id. counsel for the applicant, Shri H.K. Pande, Id. P.O. for respondent nos.1 to 3 and Shri B. Kulkarni, Id. counsel for respondent no.3.

2. The case of the applicant in short is as under –

The applicant is presently working on the post of Superintendent of Agriculture Officer in the office of respondent no.3 at Nagpur. The applicant was due for transfer, therefore, well in advance she has submitted her choices for transfer as required by the respondent no.1. The husband of applicant who is Associate Professor in the Government Medical College, Nagpur is presently assigned duty in Covid Section. The applicant as such provided places of choices at vacant places nearby posting of her husband. As per the G.R. dated 9/4/2018, the husband and wife should be posted at the same place or nearby place. The respondent nos.1 to 3 have transferred the applicant from Nagpur to Nashik. The applicant made representation on 30/7/2021, but her representation is not decided. The applicant is not relieved from the present posting, therefore, prayed to quash and set aside the impugned transfer order. By way of amendment, the applicant submits that this Tribunal issued direction

to the respondent no.1 vide order dated 11/8/2021, to decide applicant's representation dated 30/7/2021. The respondent no.1 rejected the representation of applicant without considering the grievances of the applicant. It is submitted that the transfer order was passed by the Secretary, whereas, the Transferring Authority is the Chief Minister as per 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 transfer of the applicant was recommended by the Secretary and transfer is also issued by the Secretary. The delegation of power is not legal and proper.

3. It is submitted that respondent authority is adopting pick and choose policy and modified the transfer of other officers on request within 9-10 days of transfer order and issued modified order dated 9/8/2021 which can be apparent from the following Chart -

Sr. No.	Name	Transfer as per order dated 29/7/2021	Modification of posting on transfer as per order dated 9/8/2021
1.	Milind Shende	Nagpur to Sindhudurg	Nagpur
2.	Navnath Kolpakar	Yeotmal to Bhandara	Yeotmal
3.	Blasaheb Jejurkar	Nashik to Yeotmal	Beed
4.	Khanderao Sharaf	Parbhani to Gadchiroli	Hingoli
5.	Prabhakar Shivankar	Nagpur to Nandurbar	Nagpur

4. The applicant submits that following Officers are retained the same region since last more than 24-27 years upon transfer -

Sr.No.	Name	Region
1.	Naliny Bhoyar	Nagpur
2.	Archana Kadu	Nagpur
3.	Vidya Mankar	Nagpur
4.	Vinaykumar Awate	Pune & Kokan
5.	Meghna Kelakar	Pune

5. The respondent no.4 was transferred vide order dated 29/7/2021 to Sindhudurg. Within a short span, the transfer order dated 29/7/2021 is modified and vide order dated 9/8/2021, he is transferred in the office of Divisional Joint Director of Agriculture, Nagpur in place of applicant. At last, the applicant prayed to quash and set aside the impugned transfer order. In the alternative, she prayed for direction to the respondent nos.1 to 3 to post her on transfer nearby places of Nagpur. She also prayed to quash and set aside the transfer of respondent no.4.

6. The application is opposed by the respondent nos.1 to 3. It is submitted that the applicant is working in the Nagpur Division for more than 23 years. The applicant has given choices only in Nagpur District, therefore, she is transferred to Nashik.

7. On 11/08/2021, this Tribunal has stayed the impugned transfer order of the applicant with direction to the respondent nos.1 to 3 to decide the representation of the applicant dated 30/07/2021. The said representation is rejected by the respondent nos.1 to 3.

8. Heard Shri N.R .Saboo, learned counsel for the applicant. He has submitted that the respondent no.1 has modified the transfer order of the persons shown in the Chart in the O.A. within a short span. There are other employees who are working from 24-27 years in the Nagpur Division, Pune & Kokan Division.

9. The learned counsel for the applicant has submitted that the applicant is ready to accept the transfer nearby Nagpur. Her husband is working as Associate Professor at Government Medical College, Nagpur. As per the Government policy, the husband and wife should be posted at the same place or nearby place. The applicant is entitled for posting at Nagpur or nearby Nagpur.

10. The learned counsel for the applicant has submitted that the Chief Minister is the Transferring Authority, whereas, the transfer orders are issued by the Secretary, it is against the policy under the Transfers Act,2005. The learned counsel for the applicant has pointed out the decision of M.A.T., Principal Bench, at Mumbai in O.A. 653/2021 and submitted that on that ground the transfer order was quashed and set aside.

11. Heard Shri H.K. Pande, Id. P.O. for respondent nos.1 to 3. He has submitted that the applicant is working at Nagpur since 23 years. Looking to the need at Nashik, she is transferred to Nashik. The applicant has given choices only at Nagpur and therefore she is transferred to Nashik.

12. During the course of hearing on previous date, this Tribunal directed the Id. P.O. to get instructions as to whether the posts at Nagpur, Bhandara, Gondia and Chandrapur are vacant or not. Vide Pursis (date is not mentioned), the Administrative Officer, Divisional Joint Director of Agriculture, Nagpur Division, Nagpur stated that the posts at Nagpur, Bhandara, Gondia and Chandrapur are vacant. But it is stated that due to heavy administrative requirement at Nashik, the applicant is transferred to Nashik.

13. From the perusal of the submission and statement made by the applicant, it appears that the respondent no.4 was transferred from Nagpur to Sindhudurg vide order dated 29/7/2021. His transfer order is modified on 9/8/2021 and again he is posted at Nagpur. Other employees namely N. Kolpakar, B. Jejurkar, K. Sharaf & P. Shivankar were transferred, but their transfer orders were modified. The contention of the respondent nos.1 to 3 is that the applicant is working at Nagpur since 23-24 years, but other employees namely Naliny Bhojar, Archana Kadu, Vidya Mankar, Vinaykumar Awate &

Meghna Kelakar were working in the Nagpur Division, Pune & Kokan Division since 24-27 years, but they are not transferred. This itself shows that the respondent nos.1 to 3 have shown favouritism to some of the employees.

14. Shri N.R. Saboo, learned counsel for the applicant has pointed out the report of Civil Services Board obtained under the RTI Act. From the perusal of the report of Civil Services Board, it is clear that the applicant had given options at Nagpur and the Civil Services Board recommended her transfer at Nagpur, but the respondent no.1 not considered the report of Civil Services Board. The report of Civil Services Board is not empty formality. It is the report of Principal Secretary (in-charge) Shri Anup Kumar, Secretary of Agriculture Department & the Commissioner of Agriculture. It is clear from the statement made by the applicant in the present O.A., that the respondent no.1 has modified the transfer order of some of the employees within a short span. As per the Pursis filed by the Rajesh S. Umbarkar, Administrative Officer, Divisional Joint Director of Agriculture, Nagpur Division, Nagpur the posts at Nagpur, Bhandara, Gondia and Chandrapur are vacant. The husband of applicant is working as Associate Professor in the Government Medical College, Nagpur. Therefore, in view of the transfer policy, the husband and wife should

be posted together, if not possible, they should be posted nearby place. In that view of the matter, the following order is passed –

ORDER

- (i) The O.A. is partly allowed.
- (ii) The impugned transfer order is hereby quashed and set aside.
- (iii) The respondent nos.1 to 3 are directed to modify the transfer / posting of the applicant and post her nearby Nagpur, i.e., Bhandara, Gondia and Chandrapur within a period of one month.
- (iv) No order as to costs.

Dated :- 01/03/2022

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

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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 : 01/03/2022.

Uploaded on : 01/03/2022.*