

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 684 of 2021 (SB)

Pramod S/o Nandkishor Mankar,
Aged : years, Occ : Service as
Integrated Child Development Project Officer (Rural),
Development Project Amgaon, District Gondia,
R/o Fuli, Post Khaira, Taluka Nandura,
District Buldhana – 443 103.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Woman and Child Development Department,
Mantralaya, New Administrative Building,
3rd floor, Mumbai- 400 032.
- 2) The State of Maharashtra,
through its Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
- 3) Commissioner, Woman & Child Development,
Maharashtra State, 28, Queen Garden, near Old
Circuit Hose, Pune-01.
- 4) Deputy Commissioner (Admn.),
Woman & Child Development,
28, Queen Garden, near Old
Circuit Hose, Pune-01.

Respondents.

Shri Ram D. Karode, Advocate for the applicant.
Shri M.I. Khan, P.O. for the respondents.

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

Dated :- 23/03/2022.

JUDGMENT

Heard Shri Ram D. Karode, learned counsel for the
applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. The contention of the applicant that as per the recommendation of MPSC, as per appointment order / G.R. dated 12/6/2017, the Government has appointed the applicant on the post of Integrated Woman and Child Development Officer and posted him at Amgaon (Rural), District Gondia w.e.f. 06/07/2017. The applicant joined there on 6/7/2017. After completion of four years, the respondents have transferred the applicant at Aheri, District Gadchiroli.

3. It is contention of the applicant that the Government has passed the G.R. dated 6/8/2002. As per said G.R., the employees who worked in naxalite / tribal area for a period of two years, they are entitled to get choice posting. Therefore, the applicant has prayed to quash and set aside the impugned order by which he is transferred to Aheri, District Gadchiroli, which is naxalite / tribal area.

4. The application is opposed by the respondents. It is submitted that the respondents are performing very sensitive nature of work. The posts of Child Development Project Officers (Rural) perform their duties under the Integrated Child Development Service Scheme of Rural Projects. Particularly, the percentage of mal nutrition is high in the projects of the Tribal area. In this situation, there are around 50% posts vacant in the Naxalite and Tribal area and therefore, there was no option for the respondents, but to transfer the

applicant in the tribal area, i.e., Aheri, District Gadchiroli. If the transfer order is cancelled, then there will not any employee to post in the tribal area to fulfill the schemes of the Department. Hence ,the O.A. is liable to be dismissed.

5. Heard Shri Ram D. Karode, learned counsel for the applicant. He has submitted that in view of the G.R. dated 6/8/2002, the applicant is entitled to get choice posting. As per his submission, the posts are vacant as per para-15 of reply of respondent nos.1 to 3 at page no.114.

6. Heard Shri M.I. Khan, learned P.O. for the respondents. As per his submission, there is direction of Hon'ble High Court in PIL to fill the posts in tribal area and therefore there is no option left to the respondents, but to post the applicant in that area. There are no other employees to be posted there. Hence, the O.A. is liable to be dismissed.

7. The G.R. dated 6/8/2002 is issued by the Government of Maharashtra looking to the difficulties faced by the Government employees working in naxalite / tribal areas. As per the said G.R., some benefits are given to the employees working in the naxalite area. They are getting one step promotional pay. As per the said G.R., the employees who worked in the naxalite / tribal area are

entitled to get choice posting after completion of two years service in the said area.

8. The learned P.O. has pointed out the Judgment of Hon'ble Apex Court in case of **Union of India and Ano. Vs. Deepak Niranjn Nath Pandit (2020) 3 SCC, 404** and submitted that the employee cannot seek transfer at specific place as of right. There is no disputed that the transfer is a condition of service, the employee cannot claim a transfer at specific place as of right, but now in Maharashtra, because, 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 Government have to follow the provisions of the said Act. The intention for issuing the G.R. dated 6/8/2002 is to give some protection to the employees who worked in the naxalite area and those who worked in naxalite area leaving their family behind. They are getting the benefit of transfer as per their choices after completion of two years. The G.R. dated 6/8/2002 till date is not stayed by any Court including the Hon'ble Apex Court. The Government has to follow the said G.R. The respondents are the Government agency, therefore, they are expected to follow the said G.R. The cited decision by Id. P.O. in case of **Union of India and Ano. Vs. Deepak Niranjn Nath Pandit (cited supra)** is not applicable in the case in hand, because, it

is not a case in respect of G.R. dated 6/8/2002. Till date the transfers are governed by G.R. dated 6/8/2002 in respect of the employees who worked in naxalite / tribal area and generally the Government should give posting as per the choice of employees who worked for two years in the naxalite area. In view of the G.R. dated 6/8/2002, the interim order was passed by this Tribunal on 17/8/2021.

9. The learned counsel for the applicant has submitted that choice posts demanded by the applicant are vacant and there is no hurdle for the respondents to post the applicant at the said post.

10. In that view of the matter, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The impugned transfer order dated 9/8/2021 to the extent of applicant is hereby quashed and set aside.

(iii) The respondents are directed to give choice posting to the applicant in the coming general transfers orders in the month of April/ May 2022.

(iv) No order as to costs.

Dated :- 23/03/2022.

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

dnk.

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 : 23/03/2022.

Uploaded on : 24/03/2022_{ok}