

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 688/2019 (S.B.)

Ramesh Laxman Sargar,
Aged about 57 years, Occ. Service (Accountant),
R/o Shivaji Nagar, Karanja (Lad),
Tq. Karanja (Lad), Dist. Washim.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Urban Development
Department, Mantralaya, Mumbai-32.
- 2) The Commissioner/ Director,
Municipal Administration,
Government Transport Services,
Building 3rd floor, Warli, Mumbai.
- 3) The Deputy Director,
Municipal Administration,
Government Transport Services,
Building 3rd floor, Warli, Mumbai.
- 4) The Chief Officer,
Municipal Council, Karanja (Lad),
Tq. Karanja (Lad), Dist. Washim.
- 5) Shri Santosh Sakharam Chopade,
Aged about Adult, Occ. Service,
O/o Municipal Council, Risod,
Tq. Risod, Dist. Washim.

Respondents.

Shri S.N. Gaikwad, Advocate for the applicant.

Shri M.I. Khan, P.O. for respondent nos.1 to 3.

Shri P.P. Deshmukh, Id. counsel for respondent no.4

Shri N.R. Saboo & Mrs. K.N. Saboo, Advs. for respondent no.5.

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

Dated :- 20th November, 2019.

JUDGMENT

Heard Shri S.N. Gaikwad, learned counsel for the applicant, Shri M.I. Khan, learned P.O. for R-1 to 3, none for respondent no.4 and Smt. K.N. Saboo, Id. counsel for respondent no.5.

2. The applicant joined service as Watchman in 1988, he was promoted as Accounts Clerk in 1993, in 1996 he became Assistant Account. The applicant was absorbed in the State cadre from 2010 and since then he is working as an Accountant.

3. It is contention of the applicant that vide order dated 18/11/2015 the applicant was transferred from Risod to Karanja and he is working at Karanja, District Washim. It is grievance of the applicant that the respondent no.2 issued the transfer order dated 29/8/2019 and transferred the respondent no.5 from Risod to Karanja and the applicant is transferred from Karanja to Murtizapur, District Akola. This transfer is attacked on the ground that the applicant was not due for transfer, his mother is aged about 85 years and the applicant was due to retire after 1 year and 10 months on superannuation. It is submitted by the learned counsel for the

applicant that the transfer is in violation of 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 is that the transfer is only to accommodate to the respondent no.5 as per his request and therefore, as without complying the legal provisions the applicant is transferred consequently the order be quashed.

4. The learned P.O. submitted that the applicant has completed tenure of three years at Karanja, he was due for transfer and decision was taken by the Government vide G.R. dated 11/5/2017 that the State level Officers should not be retained for a term more than six years in one District. According to the learned P.O., the options of the applicant were called and options were submitted by the applicant and choice posting is given to him, therefore, there is no substance in the application.

5. The learned counsel for the respondent no.5 submitted that the applicant was due for the transfer and there is no malafide in the transfer order, therefore, the O.A. is liable to be dismissed.

6. I have perused the order dated 18/11/2015, by this order the applicant was posted as Assistant Account to Karanja after his transfer from Mangrulpir, if period from 18/11/2015 is taken into account, then it is clear that the applicant was due for transfer. As per

the Transfers Act,2005 the normal tenure of the applicant was three years and this three years period was completed by the applicant in 2018, therefore, I do not see any merit in the contention that the applicant was not due for transfer. In the Synopsis it is categorically mentioned by the applicant that he is transferred before completion of normal tenure and therefore transfer order is illegal, but on the basis of the facts, I do not see any merit in this contention.

7. Secondly, it appears that the applicant made request for his retention at Karanja on the ground that his mother was ill and his retirement was after 1 year and 10 months. It is contention of the learned P.O. and learned counsel appearing on behalf of the respondent no.5 that the options were called for the general transfers and three choice postings were informed by the applicant to the Department as per page no.53. On perusal of this form it seems that the first option was Murtizapur Dist. Akola and since 2014 the applicant was serving in Washim District at the places Risod, Mangrulpir and Karanja. The applicant had completed tenure of 3 years 7 months at Karanja. Secondly, my attention is invited to the G.R. dated 11/5/2017, the Government of Maharashtra has taken a policy decision that State level cadre Officers shall be transferred after three years and no officer shall be retained after expiry of 4 years tenure. Similarly, decision was taken by the Government not to keep

such Officer in one District for continuous period more than 6 years. It appears from the form submitted by the applicant that he worked in Washim District for a period of 7 years, consequently as per the G.R. dated 11/5/2017 it was necessary to transfer the applicant. So far as illness of mother is concerned, I do not see much merit in the contention for the reason that every Government servant has personal difficulties and family problems, such problems cannot over right the need of the administration. Secondly, the remaining service period before the retirement was not less than 1 years, consequently, I do not see any merit in the contention of the applicant that his transfer is illegal or malafide particularly in view of the fact that choice posting is given to the applicant. Hence, the following order –

ORDER

The O.A. stands dismissed. No order as to costs.

Dated :- 20/11/2019.

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(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 : 20/11/2019.

Uploaded on : 21/11/2019.