

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.753/2018.

(S.B.)

Umesh Thakur Rathod,
Aged about 43 years,
R/o Dattatraya Nagar, Lohara,
Tehsil and Distt. Yavatmal.

Applicant.

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Tribal Development,
Mantralaya, Mumbai-400 032.
- 2) The Commissioner of Tribal Development (M.S.),
Adivasi Vikas Bhavan, 2nd floor,
Gadkarii Chowk, Old Agra Road,
Nashik-422002.
- 3) The Additional Commissioner,
Tribal Development, Amravati.
Near Police Commissionerate,
Camp, Amravati.
- 4) The Integrated Tribal Development Project Officer,
Pandharkawada,
- 5) The Head Master,
Govt. Ashram School, Kaptra,
Tq. & Distt. Yavatmal.
- 6) Shri R.S. Bhosle,
Presently working at Govt. Ashram School, Kapra,
Tq. & Distt. Yavatmal.

Respondents

Shri N.R. Saboo, the learned counsel for the applicant.
Shri A.M. Khadatkar, the learned P.O. for respondents 1 to 6.
None appeared for respondent No.6.

Coram:- Shri Anand Karanjkar,
Member (J)

ORAL JUDGMENT

(Passed on this 25th day of April 2019.)

Heard Shri N.R. Saboo, the learned counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for respondent Nos. 1 to 5. None appeared for respondent No.6.

2. It is the contention of the applicant that by the impugned order dated 8.8.2018, he was transferred from Govt. Ashram School, Kapra to Govt. Ashram School, Jam, though he was not due for transfer and it was falsely shown that the applicant was transferred on his request. It is the contention of the applicant that only to accommodate respondent No.6, the applicant was transferred to Jam and, therefore, the transfer of the applicant is illegal. It is submitted that the applicant made representation for cancellation of his transfer, but no heed was paid and in this situation, it is submitted by the applicant that the transfer order dated 8.8.2018 be quashed and set aside and the applicant be permitted to resume his duty at Kapra.

3. The respondent No.6 has submitted reply which is at page No.23. It is submitted that the applicant himself made representation for transferring him from Kapra, as there was threat to the life of the applicant at Kapra. It is contended that the respondent No.6 was having serious health problem and for his medical aid, he requested for transfer to Kapra, his representation was accepted by the office and consequently he was transferred. It is denied by the respondent No.3 that the transfer was malafide or only to accommodate the respondent No.6, the applicant was transferred.

4. The respondent No.3 submitted reply which is at page No.50 and justified the transfer. It is submitted that the applicant submitted application and made request for his immediate transfer from Kapra on the ground that he was attacked by some gunda elements and there was threat to his life. It is submitted that when it was possible for the administration to transfer the applicant, he was transferred to Jam and, therefore, there are no malafides in the transfer order, the application is devoid of any merit and is liable to be dismissed.

5. After perusing the application dated 23.8.2017 submitted by the applicant, it is made clear that the applicant himself

reported to the respondent No.3 he was attacked by some gunda elements on 25.7.2017 and there was threat to his life. Request was made by the applicant for his immediate transfer to Ashram School, Hiwri, Distt. Yavatmal. It is the contention of the respondents that at that time, it was not possible for the respondent No.3 to transfer the applicant as no post was vacant and whenever vacancy arose, request of the applicant was considered and he was transferred from Kapra to Jam. It is submitted that considering medical background of respondent No.6, the respondent No.6 was transferred to Kapra and the applicant was transferred to Jam, there is no illegality in it. It is pertinent to note that, now it is the contention of the applicant that he shall be re-transferred to Kapra after cancellation of transfer order dated 8.8.2018. In this background, I would like to point out that the applicant himself represented that there was threat to his life. Under these circumstances, inference can be drawn that either the representation dated 23.8.2017 was made by the applicant on false pretext or only for raising dispute, he is now claiming to re-transfer him to Kapra. Facts and circumstances are very much clear which suggest that at the request of the applicant, he was transferred from Kapra. In Government service, the Government servant has no right to say that he shall be posted at a particular station. On the contrary,

in the present case, considering the threat to the life of the applicant, he was transferred from Kapra. Under these circumstances, I do not see any merit in this O.A. Hence, I proceed to pass the following order:-

ORDER

The O.A. stands dismissed with no order as to costs.

(Anand Karanjkar)
Member (J)

Dt. 25.4.2019.

pdg.