

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**  
**NAGPUR BENCH, NAGPUR.**

**ORIGINAL APPLICATION NO.764/2015.**

Ashok Namdeorao Tembhre,  
Aged about 57 years,  
Occ-Service,  
R/o 14, Zilla Parishad Colony,  
Vikas Nagar, Amravati.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Revenue and Forests,  
Madam Cama Road, Hutatma Rajguru Chowk,  
Mantralaya, Mumbai-32.
2. The Dy. Secretary,  
Department of Revenue and Forests,  
Madam Cama Road, Hutatma Rajguru Chowk,  
Mantralaya, Mumbai-32.
3. The Divisional Commissioner,  
Nagpur Division, Nagpur.  
Old Secretariat Building, Civil Lines, Nagpur.
4. The Divisional Commissioner,  
Amravati Division, Amravati,  
Bypass Road, Camp, Amravati.

**Respondents.**

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Shri D.T. Shinde, Ld. counsel for the applicant.

Shri M.I. Khan, Ld. P.O. for the respondents.

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**Coram:- B. Majumdar, Vice-Chairman**

**Dated:- 17<sup>th</sup> February 2016.**

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**Order**

The applicant, a Tehsildar is aggrieved that he has been transferred to Gadchiroli when his parent Division is Amravati. On 1.12.2015, the applicant challenged the legality of the order.

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2. The Recruitment Rules for the post of Tehsildar were notified in 1989. Rule 2 (1) states that the Tehsildar's cadre shall be a Divisional cadre and the officers appointed to that cadre may be posted, transferred or deputed to any part of the Division concerned. The applicant was promoted vide order dated 21.2.2014 and was posted as Tehsildar at Khamgaon, District Buldana. He was placed under suspension on 6.6.2015 with his headquarters at Buldana. On 7.11.2015, the Government issued an order vide which the applicant was reinstated in service and on reinstatement, in terms of circular dated 20.4.2013, he will be posted on a non functional post in a different district than the one in which he was suspended. On 1.12.2015, the Government issued an order authorizing the Divisional Commissioner, Nagpur to post the applicant against a vacant non-functional post in the Gadchiroli district. According to the applicant, the Divisional Commissioner, Nagpur has not yet granted him any posting. The applicant is due to retire on 30.6.2016.

3. The applicant submits that the order of reinstatement dated 7.11.2015 does not contain any direction to transfer him from Amravati to Nagpur Divisions and Gadchiroli district. He is yet to complete his normal tenure of three years at Buldhana. Till today, he has not been relieved from the post of Tehsildar with headquarters at



Buldhana and no transfer-cum-posting order has been issued till today.


4. The respondent No.1, Secretary, Department of Revenue and Forests in his reply submits that as per the Recruitment Rules, the Tehsildar's cadre is a Divisional cadre and officers appointed in that cadre may be posted, transferred or deputed to any part of the Division concerned. The order dated 1.12.2015 has been issued with the approval of the next higher competent authority. He further submits as follows:

"I say and submit that, for mid-term transfer of Tehsildars (Group-A), the Revenue and Forest Department had constituted the "Civil Services Board", headed by Principal Secretary (Revenue) on 17.7.2015. For posting the various candidates after their reinstatement, the "Civil Services Board" held the meeting on 2.11.2015. There were many posts of Tehsildars vacant in Nagpur Division especially in Gadchiroli and Chandrapur Districts. These Districts are Tribal and Naxal affected. Due to scarcity of officers in Tehsildar cadre in these districts, the day-to-day administrative work is being affected. Considering these facts, the "Civil Services Board" recommends the applicant as well as other persons to be posted in Gadchiroli and Chandrapur Districts. The "Civil Services Board" also recommends that these postings are only of temporary in nature. As and when officers are available in Tehsildar cadre (by mode of direct recruitment or by promotion) in Nagpur Division, the applicant is eligible to be posted in his original division".

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5. Shri D.T. Shinde, the learned counsel for the applicant mainly reiterated what the applicant has submitted in the O.A. The applicant is a Division level officer and even on the ground of reinstatement after suspension, he cannot be posted outside the Amravati Division in which he was appointed. The G.R. of 20.4.2013 as well as the order dated 7.11.2015 clearly stipulate that on reinstatement, the Government servant has to be posted in a different districts but within the same Division.

6. Shri M.I. Khan, the learned P.O. submitted that merely because the cadre of Tehsildar is a Divisional cadre, it did not preclude the respondents from posting him in any other Division. There is no such bar in the entire Recruitment Rules. The impugned order of posting him to Gadchiroli district was issued with the prior approval at the level of the Chief Minister. For this purpose, he has produced extract from the relevant file in Mantralaya. He then relied on the order of the Principal Bench of this Tribunal dated 13.1.2016 (**Birbal L. Walvi V/s Govt. of Maharashtra and one another, O.A. No.1069/2015, dated 13.1.2016**), the case of this applicant was similar to the present one, as he belonged to Nasik Division and on reinstatement he was posted in Nagpur Division. The order dated 1.12.2015 was impugned in this O.A. also. The Tribunal disposed of



the O.A. by holding that it was not obligatory for the Government to post him within the Nasik Division on his reinstatement.


7. I find that the G.R. dated 20.4.2013 does not specify that on reinstatement, a Divisional level Government employee should not be posted in a different division. Besides, the G.R. contains guidelines only. The Government undoubtedly has full authority to carry out postings subject to the provisions of the Transfer Act. This authority can in no way be deemed to be restricted by virtue of these guidelines. The applicant has relied upon the provisions of Rule 2 (1) of the 1989 Recruitment Rules of Tehsildars which states that it is a Divisional cadre. However, this provision or any other provision in these rules does not curtail the Government's authority to transfer a Tehsildar outside the Division to which he is assigned on appointment, provided the administrative reasons justifying this. We find ~~that~~ that the applicant's case is very similar to that of **Birbal L. Walvi V/s Govt. of Maharashtra and one another** (supra). By filing this O.A., he had challenged his posting to Chandrapur from Nasik Division on his reinstatement from that Division. This is clearly seen from the extract of the proceedings of the Civil Services Board (P.65 of the O.A.) which had considered the names of six reinstated Tehsildars including him and the applicant in the present O.A. for posting in the Chandrapur

and Gadchiroli area. The Tribunal had held that it was not obligatory to post a Tehsildar on his reinstatement in the Division to which he belongs. We reproduce below the paras 10 and 11 of the above order of the Tribunal:

**“10.** Competency of the Government to post the applicant any other location in the State of Maharashtra is not disputed. It is also not shown that the Government was under statutory obligation to the order of applicant’s posting only within the Nasik Division.

**11.** So long as the order passed by the Government is not shown to be contrary to the provisions of law, this Tribunal cannot invoke and exercise its power and authority to interfere in the executive action within its power under Article 226 of the Constitution of India.”

8. The learned counsel for the applicant had made a submission that in the above order the Tribunal did not consider the statutory provisions of Rule 2 (1) of the Recruitment Rules. In my view, as the rule states that a Tehsildar on appointment may be posted, transferred or deputed to any part of the Division concerned, it does not preclude the competent authority from transferring him to any other Division. Thus, the above presumption of the learned counsel for the applicant requires to be rejected.



9. After taking into consideration all the issues as above, I find that the present O.A. is devoid of any merit. Hence, it stands rejected with no order as to costs.

sd/-

(B.Majumdar)  
Vice-Chairman

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