

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH : NAGPUR**  
**ORIGINAL APPLICATION NO. 818/2023(S.B)**

Virendra s/o Devidas Dafe,  
Aged about 55 years, Occ : Town  
Planner,R/o Janki Nagar,  
Shegaon-Rahatgaon  
Road, Amravati-444604.

.....**Applicant.**

**-Versus –**

1. The Principle Secretary,  
Urban Development-1,  
Madam Kama Road, Rajguru Squire,  
Mantralaya, Mumbai-32,
2. The Director Town Planning,  
Central Building, Ground Floor, Near  
Railway Station, Pune-411001.
3. The Joint Director, Town Planning,  
Camp, Amravati-444602.
4. Sanjay BabulalNakod,  
C/o Joint Director, Town Planning,  
Camp, Amravati-444602.

.....**Respondents.**

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- 1.ShriS.M.Khan ...Adv. for the applicant**
  - 2.ShriM.I.Khan.... Presenting Officer for the Respondent no.1 to 3**
  - 3.Shri N.R. Saboo, Narendra Dhool....Adv. for Respondent no. 4.**
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**CORAM :Hon'bleShri Justice M.G.Giratkar,**  
**Vice Chairman**

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**Date of Reserving for judgment : 23 January 2024**  
**Date of Pronouncement of judgment : 02 February 2024**

## **JUDGMENT**

**(Delivered on this 02<sup>nd</sup> of February 2024)**

Heard Shri S.M.Khan, learned Counsel for the applicant, Shri M.I.Khan, learned P.O. for respondent 1 to 3 and Shri N.R. Saboo, learned counsel for respondent 4.

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

The applicant was appointed as Planning Assistant w.e.f. 23<sup>rd</sup> September 1996. The applicant came to be promoted as a Town Planner Group-A Officer (Gazetted) and posted at Amravati as per the promotion order dated 30<sup>th</sup> July 2021.

3. As per the provisions given under the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (In short “The Transfer Act, 2005”) the terms and condition has to be followed while transferring Group-A Officer. The applicant has not completed the normal tenure at Amravati. Without complying the Section 4 (4) and 4 (5) of the Transfers Act, 2005, he is transferred from Amravati to Akola. It is submitted that applicant has not completed normal tenure. Therefore, the impugned transfer order dated 19<sup>th</sup> July, 2023 is liable to be quashed and set aside.

4. It is submitted by the learned counsel for the applicant that in place of applicant, the respondent no.4 is transferred from Latur to Amravati. The learned counsel for applicant also submitted that the applicant has not completed normal tenure and therefore the impugned transfer order dated 19<sup>th</sup> July, 2023 is liable to be quashed and set aside. The applicant has approached to this Tribunal for the following reliefs -

- i. quash and set aside the Mid-term transfer Order No-5822/108/2022 dated 19/07/2023 to the extent of Applicant.*
- ii. to allow the applicant to complete the term of Three Years at Amravati as a normal practice.*
- iii. grant any or further relief including costs as may be deemed fit and proper in the circumstance of the case.*

5. The O.A. is strongly opposed by respondent nos. 1 to 3. It is submitted that the transfer is a condition of service and therefore the applicant is bound to accept the transfer. The respondent no.4 has already joined at place of applicant. It is submitted that the Competent Authority and the Chief Minister has approved the transfer of applicant. Therefore, there is a compliance of the Section 4 (4) and 4 (5) of the Transfers Act, 2005 and hence the O.A. is liable to be dismissed.

6. The respondent no.4 has filed reply. It is submitted that the respondent no.4 is transferred to Amravati from Latur. As per the transfer

dated 19<sup>th</sup> July, 2023, he has already joined at transferred place at Amravati and he is discharging his duty. The respondent no.1 vide order dated 02.08.2023 also assigned the additional charge of the post of Assistant Director of Town Planning, Amravati to respondent no.4, in view of the retirement of N.D. Lolge. The respondent no.4 had made representation for transfer him to Amravati from Latur. It is considered by the Government. He has already joined at the transferred place in place of applicant. Hence the O.A. is liable to be dismissed.

7. Heard learned counsel for applicant Shri S.M. Khan. During the Course of submission, he has pointed out the Judgment of this Tribunal in O.A.890/2022 and the Judgment of the Hon'ble High Court. This Tribunal has quashed and set aside the transfer order on the ground that it was on the recommendation of MLA. Learned counsel for applicant has submitted that MLA Shri Ravi Rana made recommendation of respondent no.4. In that respect, the applicant has filed affidavit. The respondent no.4 has filed counter affidavit and denied the contention that no any such representation was made through MLA Shri Ravi Rana.

8. The learned counsel for respondent no.4 Shri N.R. Saboo has pointed out the representation dated 22<sup>nd</sup> February, 2023. As per this representation, the Government has considered the difficulties of the applicant and other employee and transferred them as per the provisions

of the Section 4 (4) and 4 (5) of the Transfers Act,2005. The cited Judgments are not applicable. There was no compliance of the Section 4 (4) and 4 (5) of the Transfers Act,2005 and therefore mid-term transfer order was quashed and set aside.

9. Heard learned P.O. for respondent nos.1 to 3. He has pointed out the approval of transfer made by the concern Authority and the Chief Minister. He has also pointed out the document dated 07/06/2023 which is filed on record and marked as Exh-X. This document shows that the Minister and the Chief Minister have approved the transfer of the applicant and posting of respondent no.4 at Amravati. The Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No. 3003/2023 has held that the transfer is made after complying the Section 4 (4) and 4 (5) of the Transfers Act,2005 and it cannot be said as mid-term transfer.

10. In the present case, there is a compliance of the Section 4 (4) and 4 (5) of the Transfers Act,2005. Moreover, the respondent no.4 has already joined in place of the applicant. Hence, the impugned transfer order cannot be quashed and set aside. Therefore, the following order is passed –

**ORDER**

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

Date :- 02.02.2024

(Justice M.G.Giratkar)  
Vice-Chairman