

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 846 of 2021 (S.B.)

Ku. Leena Pandhari Patil,
Age 36 years, Occ. Service,
R/o Govind Nagar,
Kathora Road, Amravati,
Tq. & Dist. Amravati.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.
- 2) Commissioner,
Tribal Development,
Maharashtra State, Nashik,
Office at Adivasi Vikas Bhawan,
1st floor, Gadkari Square, Old Agra Road,
Nashik, Tq. & Dist. Nashik.
- 3) Additional Commissioner,
Tribal Development, Amravati
Office at near Police Commissioner Office,
Behind T.B. Hospital, Amravati.
- 4) Ku. Rashmi Purushottam Gawande,
Aged about 35 years, Occ. Service,
R/o Govt. Ashram School, Aadnadi,
Tq. Chikhaldara, Dist. Amravati.

Respondents.

Shri P.S. Patil, Advocate for the applicant.
Shri M.I. Khan, learned P.O. for respondent nos.1 to 3.
Shri S.N. Gaikwad, Advocate for respondent no.4.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Date of Reserving for Judgment : 4th July,2022.

Date of Pronouncement of Judgment : 18th July,2022

JUDGMENT

(Delivered on this 18th day of July,2022)

Heard Shri P.S. Patil, learned counsel for the applicant, Shri M.I. Khan, learned P.O. for respondent nos.1 to 3 and Shri S.N. Gaikwad, learned counsel for respondent no.4.

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

The applicant was appointed as a Woman Superintendent of Hostel run by Tribal Development Department in the year 2009. After her appointment, she was initially posted at Government Ashram School, Kohor, Tq. Peth, Dist. Nashik. The applicant has rendered the service in the said Ashram School from 10/6/2009 to 19/8/2010. Thereafter her services were transferred to Government Hostel (English medium) at Amravati. The applicant was lastly posted at Government Ashram School Dhanora, Tq. Morshi, Dist. Amravati as per order dated 22/7/2014 and till date she is working as a Woman Superintendent in the said School.

3. The applicant was due for transfer therefore she had given choices for posting. It is submitted that before transfer order, there was counselling on 3/8/2021. It was agreed that one Ku. Harshal Patil who is at Sr.No.8 was agreed to transfer from Gullarghat to Amravati,

One Smt. Leena Sandip Dhole was agreed before the Committee for transfer from Amravati to Dhanora. It is also accepted by respondent no.3 to transfer the services of applicant from Dhanora to Gullarghat. As per this understanding, the counselling on 3/8/2021 was completed. The applicant was therefore expecting that she will get transfer order from Dhanora to Gullarghat on or before 9/8/2021, but the impugned transfer order shows that she is transferred to Aadnadi from Dhanora. It is submitted that Civil Services Board has also not recommended unanimously about the transfer of respondent no.4, eventhough she is transferred at Gullarghat. At last submitted that the impugned transfer order is illegal and liable to be quashed and set aside.

4. The respondent no.3 filed the reply. It is submitted that as per G.R. dated 29/7/2021 the general transfer process was initiated with a cap of only 25% limit. In the cadre of lady Superintendent, 19 employees were listed within a bracket of 25%. The name of applicant as well as respondent no.4 were figured in the eligible 19 employees list. The Tribal Commissioner, Nashik has approved the recommendation for the transfer order.

5. It is further submitted that the respondent no.4 has worked in a difficult tribal belt more than the applicant. The applicant was working at Dhanora for more than six years. She was due for transfer,

therefore, the applicant is considered for transfer to Aadnadi. Hence, the O.A. is liable to be dismissed.

6. The respondent no.4 filed reply. It is submitted that the Civil Services Board has not recommended the transfer of applicant to Gullarghat. The respondent no.4 was working in the difficult / tribal area and therefore she is given choice posting as per the guidelines of State Government. Hence, the O.A. is liable to be dismissed.

7. Heard Shri P.S. Patil, learned counsel for the applicant. He has pointed out the recommendation of Civil Services Board. The counsel has submitted that one of the Member namely Smt. B.G. Giri not recommended for transfer of respondent no.4 from Aadnadi to Gullarghat. Hence, the impugned order of transfer is liable to be quashed and set aside.

8. Heard Id. P.O. Shri M.I. Khan. He has submitted that the impugned transfer order was issued as per the government guidelines. The applicant was due for transfer. She never worked in the tribal area. The respondent no.4 most of the time was in tribal area. Hence, respondent no.4 is given choice posting. There is no merit in the present O.A. and therefore it is liable to be dismissed.

9. Heard Shri S.N. Gaikwad, learned counsel for respondent no.4. He has submitted that one Smt. Leena Dhole is transferred to

the place of posting of applicant at Dharnora. She is not made party. She is affected. Hence, the O.A. is not maintainable.

10. The learned counsel for applicant has submitted that the applicant and respondent no.4 have completed their normal tenure. The applicant was working at Dhanora since 21/7/2014. She has completed more than 6 years, 10 months at Dhanora. The respondent no.4 has completed her normal tenure, therefore, both were transferred as per the recommendation of Civil Services Board.

11. The ground raised by the applicant shows that there was a counselling on 3/8/2021, but nothing filed on record to show that Smt. Leena Dhole agreed to transfer from Amravati to Dhanora and one Ku. Harshal Patil agreed to transfer from Gullarghat to Amravati. It was also agreed that the applicant be transferred to Gullarghat from Dharnora. Nothing is filed on record about such understanding as stated by the applicant. The next ground of the applicant is that one of the member of Civil Services Board not recommended the transfer of respondent no.4 from Aadhadi to Gullarghat. The copy of recommendation of Civil Services Board is on record. As per the recommendation, the respondent no.4 was recommended to transfer at Gullarghat instead of applicant. This recommendation was made by three members of the Civil Services Board namely Smt. S.M. Gawai, Nitin Tayade and Suresh Wankhede. Only one member Smt. B.G.

Giri raised objection about the transfer of respondent no.4 to Gullarghat. Looking to the majority decision, the transfer order was passed.

12. The applicant was due for transfer. She has completed more than 6 years at Dhanora and therefore she is transferred to Aadnadi. The applicant never worked in difficult / tribal area, whereas, respondent no.4 worked in tribal area, therefore, she is given choice posting at Gullarghat. There is nothing illegal in the impugned transfer order. Hence, the following order –

ORDER

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

Dated :- 18/07/2022.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

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 Vice Chairman.

Judgment signed on : 18/07/2022.

Uploaded on : 19/07/2022.

Ok