

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR**

**ORIGINAL APPLICATION NO.885/2018.** (S.B.)

Yogiraj Shrawanji Walde,  
Aged about 51 years,  
Occ-Govt. Service,  
R/o 8, Kapil Nagar, Takiya Ward,  
Bhandara.

**Applicant.**

**-Versus-**

- 1) The State of Maharashtra,  
Through its Secretary,  
Department of Water Supply and Sanitation,  
Lokmanya Tilak Marg, New Mantralaya Building,  
Mantralaya, Mumbai-400 001.
- 2) The Director,  
Ground Water Survey and Development Agency,  
Bhoojal Bhavan, Shivaji Nagar, Pune.
- 3) The Deputy Director,  
Ground Water Survey and Development Agency,  
Civil Lines, Nagpur-1.

**Respondents**

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Shri S.M. Khan, the learned Advocate for the applicant.  
Shri M.I. Khan, the learned P.O. for the respondents.

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**Coram:-The Hon'ble Shri Justice A.H. Joshi,**  
**Chairman**

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**JUDGMENT**

(Reserved on 29<sup>th</sup> January 2019)

(Delivered on this 30<sup>th</sup> day of January 2019.)

Heard Shri S.M. Khan, learned Advocate for the applicant and Shri M.I. Khan, learned P.O. for the respondents. Perused the record.

2. The applicant has approached this Tribunal with following reliefs:-

- (i) Require the respondents to decide the representations of the applicant by giving him the choice transfer posting at Bhandara / Gondia where the vacant positions are available by quashing and setting aside the order No. 2749/2018 dated 3.11.2018 and order No.0218/163/15 Dated 31.5.2018.
- (ii) Require the respondents not to relieve him from his existing place of posting until decided the representations of the applicant.
- (iii) Require the respondents not to fill the vacant post until Decided the representations of the applicant.
- (iv) Grant any of further relief including costs as may be Deemed fit and proper in the circumstances of the case.

3. By the impugned order, the applicant has been transferred from his present posting at Chandrapur vide order dated 31.5.2018 to the post of Senior Geologist, Ground Water Survey and Development Agency, Chandrapur. Though, the transfer order was issued, there was no reliving until relieving order dated 3.11.2018 was issued.

4. By virtue of interim relief granted by this Tribunal, the applicant has not been relieved.

5. Applicant's claim is based on Government decision dated 7.1.2006 , copy whereof is at Annexure A-8, page 42. Text thereof reads as follows:-

"आदिवासी / नक्षलग्रस्त क्षेत्रात चांगल्या प्रकारे काम केलेल्या अधिकारी / कर्मचारी यांना पसंतीच्या ठिकाणी बदली देण्याबाबत.

महाराष्ट्र शासन  
सामान्य प्रशासन विभाग  
शासन परिपत्रक क्र. टीआरएफ-२००५/प्र.क्र.६३/०५/१२  
मंत्रालय, मुंबई-४०० ०३२ .  
दिनांक ७ जानेवारी २००६.

- संदर्भ:-** १) शासन परिपत्रक, सामान्य प्रशासन विभाग क्र. टीआरएफ-२०००/एम/८/प्र.क्र.३/१२ दि. ११.७.२०००.
- २) शासन परिपत्रक, सामान्य प्रशासन विभाग क्र. टीआरएफ-२०००/प्र.क्र.३/१२ दि.६.८.२००२.

### **शासन परिपत्रक**

“आदिवासी / नक्षलग्रस्त क्षेत्रात बदली झाल्यानंतर त्या भागात चांगल्या प्रकारे केलेल्या गट 'अ' व 'ब' च्या अधिकाऱ्यांना दोन वर्षांनंतर व गट 'क' व 'ड' च्या कर्मचाऱ्यांना तीन वर्षांनंतर त्यांच्या मागीनिनुसार त्यांच्या पसंतीच्या जिल्यात सोयीनुसार बदली देण्याबाबत संदर्भादिन क्र. १ व २ मधील येथील या विभागाच्या शासन परिपत्रक / निर्णयान्वये सर्व विभाग / प्रादेशिक विभाग / कार्यालयांना सूचना देण्यात आल्या आहेत तथापि, सदर आदेशातील सूचनांची अंमलबजावणी काटेकोरपणे होत नसल्याचे शासनाच्या निदर्शनास आले आहे. अतएव संदर्भाधीन शासन परिपत्रक / निर्णयातील सूचनांचा पुन्हा पुनर्विचार करण्यात येत आहे. सदर सूचनांची काटेकोर अंमलबजावणी होईल याची सर्व मंत्रालयीन विभाग / विभाग प्रमुख /प्रादेशिक विभाग प्रमुख / कार्यालय प्रमुख यांनी कृपया दक्षता घ्यावी.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

(बा. बा. नारायणकर)

अवर सचिव, महाराष्ट्र शासन.”

**(Quoted from Page 42 of the O.A.)**

6. Applicant's claim can be described in summary as follows:-

“The Government servant in category A and B who is served either in tribal area or in naxalite affected area for two years is entitled for transfer and posting of his choice.”

7. Applicant claims that he had served for ten years in Nandurbar and for a longer term in Chandrapur District.

8. Applicant's Original Application is fervently opposed by the State. Opposition is made with an opportunity usual and prototyped submission, viz.,

the Government servant does not have a right to claim a posting at a particular place. However, conspicuous silence is made as to how the Government come out on its own commitment of public announcement done through Government Circular quoted in following para No.5.

9. Coming to the facts of the case, in the affidavit in reply, it is categorically admitted in para 5 that the applicant has served at Chandrapur from 11.8.2014. Thus, applicant has completed service tenure at Chandrapur for 3 years and almost 10 months on the date when the impugned order was issued. It is not the plea of the State that, the Government Circular dated 7.1.2006 which is based on G.A.D's earlier Circular dated 11.7.2000 and 6.8.2002, have been revoked or superseded.

10. In the result, the Government is estopped from taking a stand which is topsy turvy from Government's proclaimed policy decision. Approach of Government in contesting present O.A. is not only erroneous but it is unfair. As a democratic welfare and constitutional, the Government to take a somersault.

11. The learned Advocate for the applicant has also placed reliance on the judgments of this Tribunal rendered in O.A. No.81/2017 in case of Shrikant Dinkarrao Londhe V/s State and two others and in O.A. No. 36/2018 in case of Meghraj Sudhakar Morey V/s State and two others. Both the judgments of this Tribunal proceed on the same policy of State relied upon by the applicant. While deciding this case, this Tribunal would toe into line with a view already taken in O.A. Nos. 81/2017 and 36/2018. (both decided at Nagpur).

12. In the result, O.A. succeeds as follows:-

- (i) The impugned orders are set aside insofar as this is related to the applicant.

- (ii) In the next transfer session or whenever any of the occasions before the next transfer session, there is an occasion for the Government to fill in any vacancy at the place asked for by the applicant, his request may be considered as favourably as possible in keeping with the proclaimed policy of the State, further as to the Government decision dated 6.8. 2002 and 11.7.2000 and Circular Dated 7<sup>th</sup> January 2006.
- (iii) In the facts and circumstances of the case, parties are directed to bear their own costs.

(Justice A.H.Joshi)  
Chairman

Dt. 30<sup>th</sup> January 2019.

pdg

