

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR**

**ORIGINAL APPLICATION NO.894/2017.**

**(S.B.)**

Vilas Vishnupant Patil,  
Aged about 50 years,  
R/o Plot No.53, Kamal Puspa Colony.  
Walgaon Road, Amravati.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Finance  
Mantralaya, Mumbai-400 032.
2. The Special Sales Tax Commissioner,  
(M.S.), GST Bhavan, Mazgaon,  
Mumbai-400 010.
3. The Joint Commissioner of Sales Tax,  
Amravati Division, Commissioner Compound,  
Amravati-444 601.
4. The Additional Commissioner of Sales Tax,  
Nagpur Zone, Civil Lines, Nagpur-1.

**Respondents**

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Shri Bharat Kulkarni, Ld. Advocate for the applicants.  
Shri S.A. Sainis, Ld. P.O. for the respondents.

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**Coram:- Shri J.D. Kulkarni, Vice-Chairman (J)**

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**JUDGMENT**

(Delivered on this 12<sup>th</sup> day of March, 2018.)

Heard Shri Bharat Kulkarni, the learned counsel for the applicants and Shri S.A. Sainis, the learned P.O. for the respondents.

2. The applicant is the Assistant Commissioner of Sales Tax, Group-A officer and was posted at Amravati. He joined at Amravati in the said capacity on 26.11.2015 and within a span of just two years, the applicant has been transferred to Nagpur vide impugned order dated 25.10.2017. According to the applicant, the impugned order of his transfer is violative of law, premature and is against the provisions of Sections 4 (1) and 4 (5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as the "Transfer Act of 2005"). The said order being arbitrary and perverse and has been issued without assigning any reason for exceptional circumstances or special reasons, nor it has been issued without approval of the Civil Services Board (CSB) and, therefore, the applicant has claimed that the said order be quashed and set aside and the applicant be re-posted at Amravati in any vacant post.

3. Respondent Nos. 1 to 4 justified the order. It is stated that the applicant was working on the post of Assistant Commissioner of Sales Tax. But, his working was not satisfactory. He was not showing any efficiency in the work allotted to him. He has achieved only 21% of his academic target of revenue and 40% of target of visits to the dealers and, therefore, it was recommended that he should be transferred from the post of Investigating Officer, Amravati Division and the said post shall be filled in by posting of an eligible officer. Taking into consideration the report of the Joint Commissioner of Sales Tax, the matter of the applicant was kept before the Civil Services Board and the C.S.B. approved the said transfer.

4. It is further stated by the respondents that the transfer order has been issued in the interest of administrative convenience and the sanction of higher authorities has been obtained.

5. From the argument put forth by the learned counsel for the respective parties, it is clear that the applicant has not completed his tenure at Amravati, since he joined there on 26.11.2015. As per section 4 (4) and 4 (5) of the Transfer Act, 2005, the competent authority has authority to transfer the

employees before completion of the tenure. Section 4 (5) of the Transfer Act reads as under:-

**“4. Tenure of Transfer.**

(5) Notwithstanding anything contained in section 3 or this section, the competent authority, may, in special cases, after recording reasons in writing and with prior approval of the immediately superior Transferring Authority mentioned in the table of section 6, transfer a Govt. servant before completion of his tenure of post.”

6. In view of the aforesaid legal provision, it is necessary to see as to whether the transfer of the applicant is in the interest of administration. In the impugned transfer order, it has been stated that the order is in the interest of administrative convenience, though special reasons are not given in the order itself. It seems that as many as three officers have been transferred on administrative ground including the applicant. In order to see whether there exists any administrative exigency to transfer the applicant, the respondents were directed to place on record the minutes of meeting and the relevant documents to prove administrative exigency. The Ld. P.O. has placed on record the said documents accordingly which are marked “X” for the purpose of identification.

7. From Exh. 'X', it seems that the Joint Commissioner of Sales Tax, Amravati has recommended the transfer of the applicant on the ground that there was no progress in the work of Shri Patil i.e. the applicant and, therefore, the office was unable to achieve the target given. It was also observed that the applicant was having no interest in his work. The said recommendation of the Joint Commissioner of Sales Tax, Amravati was placed before the Civil Services Board and the Civil Services Board accepted the recommendation. Not only the said recommendation was further forwarded to the concerned Minister of State and the Minister of Finance and finally to the Hon'ble the Chief Minister has accepted the recommendation.

8. The learned counsel for the applicant submits that the applicant has been transferred on complaint without giving any opportunity to the applicant and no enquiry was made. The said contention of the learned counsel for the applicant, however, cannot be accepted for the simple reason that the recommendation for transfer by the competent authority to the higher authority against the employee who was not working properly or upto the mark, cannot be said to be a complaint. The Joint Commissioner of Sales Tax, Amravati, in the interest of administration recommended

the transfer of the applicant so as to achieve the target given by the Government and if the competent authority recommends for transfer of an employee, who is not doing satisfactory work, such a recommendation cannot be said to be a complaint, but it is nothing but an administrative report and the said report has been accepted by the competent authorities. The transfer of the applicant, therefore, falls within the ambit of Section 4 (5) of the Transfer Act, 2005. In the minutes of the meeting, reasons have been recorded as to why the applicant's transfer is required to be done in the interest of administration and the same has been accepted. I, therefore, do not find any illegality in the order of transfer. Hence, I proceed to pass the following order:-

**ORDER**

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

(J.D.Kulkarni)  
Vice-Chairman (J)

