

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.965/2017.

(S.B.)

Pramod Laxmanrao Meshram,
Aged about 54 years,
R/o Plot No.10, Shivshakti Layout,
Sonegaon, Post-Khamla, Nagpur-25.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture, Animal Husbandry,
Dairy Development and Fisheries,
Mantralaya, Mumbai-400 032.
2. The Commissioner of Animal Husbandry,
(M.S.), Aundh, Pune-411 067.

Respondents

Shri Bharat Kulkarni, the Ld. Advocate for the applicant.
Shri A.M. Ghogre, the Ld. P.O. for the respondents.

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

JUDGMENT

(Delivered on this 28th day of March, 2018.)

Heard Shri Bharat Kulkarni, the learned counsel
for the applicant and Shri A.M. Ghogre, the learned P.O. for the
respondents.

2. The applicant is an Assistant Livestock Development Officer, Group-C employee and vide impugned order dated 31.5.2017, the applicant has been transferred from Valu Sangopan Kendra, Nagpur to Valu Mata Prakshetra, Wadsa, District Gadchiroli on administrative ground. The applicant has claimed that the said order is illegal and in view of the judgment delivered by the Hon'ble High Court in W.P. No. 2495/2015, the said order be quashed and set aside.

3. The respondent No.2 i.e. the Commissioner of Animal Husbandry, Pune had filed reply affidavit and justified the order of transfer. It is stated that the applicant has completed more than six years at Nagpur and was due for transfer and has been rightly transferred. As regards the case of the applicant that his wife is serving at Nagpur, it is stated that the applicant never informed the respondent authority about this fact and he never requested the respondent authority for unification of husband and wife before effecting transfer dated 31.5.2017. It is stated that the applicant is a State Government employee and governed by the provisions 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”) and the said G.R. is not applicable to the Zilla Parishad employees wherein the applicant’s wife is alleged to be working. It is stated that the judgment in W.P. No. 2492/2015 is not applicable to the case of the applicant. It is further stated that the order is passed on 31.5.2017 and it has been challenged after a long period.

4. The learned counsel for the applicant invited my attention to the judgment in **W.P. No.2492/2015** passed by the Hon’ble High Court of Judicature at Bombay, Bench at Nagpur in case of **Surekha Narendra Ghumare V/s State of Maharashtra and others, pronounced on 4.2.2016.** Copy of the said judgment is at Annexure A-5, P.30 to 33 (both inclusive). In para 5 of the said judgment, the Hon’ble High Court has observed as under:-

“Perusal of the Government Resolution dated 15.5.2014 indicates that it is the policy of the State Government to see that as far as possible the husband and wife if employed with the Zilla Parishad and / or State Government, both should be posted at nearby places. It has been further stipulated that if both cannot be posted at the same place, the posting should, as far as possible not be beyond 30 Kms. This is subject

to availability of a vacant post. In the present case it is a fact that the petitioner was due for transfer. It is further not in dispute that, presently there is one vacant post at Kurkheda where the petitioner is willing to be transferred. In these facts, therefore, and by considering Government Resolution dated 15.5.2014, the impugned order transferring the petitioner at a place of about 180 kms, to Bhamragad cannot be sustained. Accordingly the follow order is passed:

“The order of transfer dated 19.6.2014 as well as order dated 7.2.2015 passed by the respondent No.2 are quashed and set aside. The respondent No.3 shall take necessary steps to post the petitioner at Kurkheda on a vacant post within a period of three weeks from today. Rule is made absolute in above terms with no order as to costs.”

5. The learned counsel for the applicant, therefore, submits that the applicant could have been adjusted at Nagpur, since his wife is serving at Nagpur. The learned P.O. invited my attention to the fact that before transfer, the applicant never disclosed that his wife was serving at Nagpur nor he claimed any concession on this point by filing any representation prior to

transfer. The learned P.O. also submitted that in order to apply the provisions of the G.R. for choice posting as per G.R. dated 11.7.2000, such an application shall be filed well before transfer and at least three months prior to transfer. A copy of the said G.R. has been placed on record at Annexure A-3. The applicant, however, did not submit his application for choice posting as per the said G.R. There is nothing on record except one representation dated 6.4.2017 (Annexure A-8) (P.57) to show that the applicant claimed choice posting or has claimed transfer on the basis that his wife was serving at Nagpur. The said representation has been sent just one month prior to transfer. Perusal of the said representation, however, shows that this representation is not as per the G.R. dated 11.7.2000, but it is an application for mutual transfer filed by the applicant and one Shri Rajesh S. Dusawar. Both of them had shown their willingness for mutual transfer.

6. Admittedly, the applicant was due at Nagpur and, therefore, he was considered for transfer. There is nothing on record to show that the applicant has given three choices of posting in the order of preference for his transfer at any other place. Considering this aspect, the respondents seem to have

transferred the applicant as per administrative convenience at Wadsa. From these facts, it is clear that the impugned order of transfer cannot be said to be illegal in any manner.

7. The applicant will be at liberty to file a comprehensive representation, mentioning the reasons in detail on which he wants transfer at Nagpur. But such a representation should be made well in advance. However, considering the fact that this O.A. was pending, the applicant will be at liberty to file such representation as early as possible and in any case within one week from the date of passing of this order. In the said representation, the applicant may take all grounds in detail, giving details of the G.R. on which he bases his claim, so also the fact of his wife serving at Nagpur and personal problems. The respondent authority may take a decision on such a representation at time of effecting Annual General Transfers of 2018, without being influenced by any of the observations made in this O.A. The competent authority shall also consider the observations made in the W.P. No. 2492/2015 as already stated above.

8. In view of discussion in foregoing paras, I do not find any illegality in the order dated 31.5.2017. Hence, I proceed to pass the following order:-

ORDER

- (1)The O.A. stands partly allowed with no order as to costs.
- (2)The representation filed by the applicant may be considered on its own merits as directed in para No.5.

(J.D.Kulkarni)
Vice-Chairman (J)
28.3.2018.

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