

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 565 OF 2018
(Subject – Transfer)**

DISTRICT : BEED

Smt. Shridevi Tukaram Suryawanshi,)
Age: 29 years, Occu. : Service,)
As a Talathi, R/o Swatantrasainik)
Colony, Ambajogi, Dist. Beed.)

.. **APPLICANT**

V E R S U S

- 1) **The Collector,**)
Collector Office, Beed,)
Dist. Beed.)
- 2) **Sub-Divisional Officer,**)
Ambajogai, Tq. Ambajogai,)
Dist. Beed.)

.. **RESPONDENTS**

APPEARANCE : Shri A.D. Gadekar, Advocate for the Applicant.

: Shri M.S. Mahajan, Chief Presenting Officer for
the Respondents.

CORAM : B.P. PATIL, MEMBER (J).

DATE : 01.01.2019.

O R A L - O R D E R

1. Heard Shri A.D. Gadekar, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The applicant has challenged the deputation order dated 21.09.2018 issued by the respondent No. 2 deputing him

from Saygaon, Tq. Ambajogai, Dist. Beed to village Borgaon (Bk), Tq. Kaij, Dist. Beed by filing the present Original Application.

3. The applicant is serving as a Talathi at village Saygaon, Tq. Ambajogai in view of the order dated 31.05.2018. In view of the said order, she joined on the post of Talathi, Saygaon, Tq. Ambajogai on 29.06.2018 and since then she is working there. It is her contention that she has not completed her normal tenure of posting at Saygaon, but the respondent No. 2 has issued order dated 20.07.2018 and deputed her at village Borgaon (Bk), Tq. Kaij, without mentioning the period of deputation. It is her contention that the said order is in contraventions of provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short the Transfer Act 2005) and therefore, she has challenged the said order by filing the present Original Application. During the pendency of the present O.A., the respondent No. 2 modified the order and deputed the applicant at Borgaon (Bk), Tq. Kaij till 31.05.2019. The applicant has also challenged the said order in the present O.A.

4. It is contention of the applicant that the impugned order is not in accordance with the provisions of Transfer Act

2005 and therefore, she has challenged the impugned orders dated 20.07.2018 and 21.09.2018, by which she has been deputed at village Borgaon (Bk), Tq. Kaij.

5. The respondent No. 2 has filed his affidavit in reply and resisted the contention of the applicant. He has not disputed the fact that the applicant is serving at Saygaon, Tq. Ambajogai since 29.06.2018 and she has not completed her normal tenure of posting there. It is his contention that several complaints were received against the applicant, wherein it has been alleged that she was not staying at Sajja and therefore, he directed the Tahsildar, Ambajogai to make enquiry in the complaints. Thereafter, the Tahsildar, Ambajogai conducted enquiry and submitted his report to him. On the basis of report received from the Tahsildar, Ambajogai he issued the impugned order of deputation deputing the applicant at Borgaon (Bk), Tq. Kaij. It is his contention that the Tahsildar in his report mentioned that villagers had threatened to go on strike due to inconvenience caused to villagers because of absence of the applicant. Therefore, in order to avoid inconvenience to the public, the impugned deputation order has been issued. It is his contention that since the preliminary enquiry against the applicant in the complaints filed against him is going on, he

required some time and therefore, the deputation of the applicant has been made at Borgaon (Bk), Tq. Kaij till 31.05.2019. It is his contention that the impugned order has been issued on account of administrative exigencies and therefore, he supported the impugned order and prayed to reject the present Original Application.

6. Admittedly, the applicant has joined the service as Talathi in the year 2010 and posted at village Talegaon, Tq. Ambejogai. In the year 2017, she was transferred to Kumbhephal, Tq. Ambajogai from Talegaon. Thereafter, she was transferred to Radi, Tq. Ambajogai in the year 2015. By the order dated 31.05.2018 she was transferred to Saygaon, Tq. Ambajogai on administrative ground. She joined her new posting at Saygaon, Tq. Ambajogai on 29.06.2018. She has not completed her normal tenure of posting at Saygaon, Tq. Ambajogai. She has been deputed at Borgaon, Tq. Kaij by the impugned orders dated 20.07.2018 and 21.09.2018 till 31.05.2019.

7. Learned Advocate for the applicant has submitted that the impugned order dated 21.08.2018 has been issued by the respondent No. 2 on the basis of enquiry report submitted by the Tahsildar, Ambajogai. He has submitted that some persons

from village Nandgaon have filed complaints against the applicant alleging that she was not staying at Sajja and therefore, inconvenience was causing to the public at large. He has submitted that no opportunity of hearing was given to the applicant and the impugned order has been issued on the basis of so-called enquiry report submitted by the Tahsildar, Ambajogai. He has submitted that in fact, Sarpanch, Up Sarpanch and other villagers of Saygaon Grampanchayat requested the respondent No. 1 to retain the applicant at Saygaon, as she was working there sincerely. But the respondent No. 2 has not considered their representation and has taken appropriate decision in the matter. He has submitted that in fact, the villagers have no grievance about the working and functioning of the applicant, but her deputation has been made on the basis of complaint filed by one Sojar Shivajirao Waghmare, Sarpanch of village Nandgaon. He has submitted that the impugned order is in contraventions of the provisions of Transfer Act 2005 and therefore, he prayed to allow the O.A. and to quash and set aside the impugned orders.

8. Learned Chief Presenting Officer has submitted that the villagers of Nandgaon, as well as, Saygaon filed oral, as well as, written complaints against the applicant with the Tahsildar,

Ambajogai regarding behavior, functioning of the applicant. The Tahsildar made enquiry in those complaints and recorded the statements of the complainant and others and found that the applicant was not staying at Sajja Saygaon, and there was public outcry against the applicant. Therefore, he has submitted report to the respondent No. 2 and recommended the transfer of the applicant. He has submitted that the Tahsildar has reported to the S.D.O. Ambajogai that due to behavior of the applicant, inconvenience was causing to the farmers and public at large and therefore, he requested to transfer the applicant. On the basis of report submitted by the Tahsildar, the S.D.O. deputed the applicant at Borgaon (Bk.), Tq. Kaij as temporary arrangement on account of administrative exigencies. He has submitted that the S.D.O. will take the appropriate decision on the basis of enquiry report submitted by the Tahsildar. Therefore, he supported the impugned order.

9. On perusal of the record and documents, it reveals that on 09.07.2018 Shri Sojar Shivajirao Waghmare, Sarpanch, Nandgaon filed a complaint with S.D.O., Ambajogai against the applicant alleging that the applicant is not residing at Headquarter Saygaon and therefore, inconvenience was causing to the public at large and farmers. On the basis of said

complaints, the respondent No. 2 directed the Tahsildar, Ambajogai to make enquiry in the allegations. The Tahsildar, Ambajogai made enquiry in respect of complaints filed against the applicant. He recorded the statement of son of complainant and other villagers and on considering their statement, he came to the conclusion that there was substance in the allegations made against the applicant and therefore, he recommended the transfer of the applicant. He has specifically mentioned in the report that several villagers have also made oral complaints with him against the applicant and he had directed the applicant to stay at headquarter. He has specially mentioned in his report that in view of the behavior of the applicant inconvenience was causing to the farmers. He apprehended that in case, the applicant has not been transferred from Sajja Saygaon, there was possibility of agitation of farmers against her and accordingly, he submitted the report to the respondent No. 2 on 18.07.2018. On the basis of report submitted by the Tahsildar, Ambajogai, the respondent No. 2 decided to depute the applicant at Borgaon (Bk), Tq. Kaij and accordingly, he has issued the impugned order dated 20.07.2018 without mentioning specific period of deputation. But during the pendency of the O.A., he issued another order dated 21.09.2018 and clarified that the said order will remain in force till 31.05.2019, as he requires some time to

take appropriate decision in the complaint filed against the applicant. The impugned order is not a transfer order, but it is a temporary arrangement. The said decision has been taken by the S.D.O. Ambajogai on administrative ground in the interest of public at large, as inconvenience was causing to the public at large particularly farmers because of the absence of the applicant at headquarter. The respondent No. 2 has not taken final decision in the enquiry report submitted by the Tahsildar, Ambajogai in respect of complaints filed against the applicant.

10. In these circumstances, in my view, there is no illegality in the impugned orders dated 20.07.2018 and 21.09.2018 by which the applicant has been deputed at Borgaon (Bk), Tq. Kaij till 31.05.2019. She has not been transferred from Saygaon, Tq. Ambajogai. Therefore, in my view, there is no illegality in the impugned orders dated 20.07.2018 and 21.09.2018, as the said orders have been issued by the respondent No. 2 on account of administrative exigencies. Therefore, no interference is called for in the impugned order. There is no merit in the present O.A. Consequently, the O.A. deserves to be dismissed.

11. In view of the discussions in the foregoing paragraphs, the Original Application stands dismissed with no order as to costs.

PLACE : AURANGABAD.
DATE : 01.01.2019.

(B.P. PATIL)
MEMBER (J)

KPB S.B. O.A. No. 565 of 2018 BPP 2019 Transfer