

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 582/2020 (S.B.)

Dr. Shrikant Ganesh Paranjape,
Aged about 58 years,
R/o Plot No. 7, Swawlambi Nagar,
Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Department of Medical Education & Research,
Mantralaya, Mumbai.
- 2) The Director of Medical Education
& Research, Mumbai.
- 3) Dean, Govt. Medical College,
Nagpur.
- 4) Dr. Chetna Shamkuunwar, Govt.
Medical College, Chandrapur.

Respondents.

Shri N.R.Saboo, the Id. counsel for the applicant.
Shri A.M.Khadatkar, the Id. P.O. for respondents.

Coram :- Hon'ble Shri Shree Bhagwan,
Vice-Chairman.

Date of Reserving for Judgment : 25th June, 2021.

Date of Pronouncement of Judgment : 02nd July, 2021.

(Delivered on this 02nd day of July, 2021)

Heard Shri N.R.Saboo, the Id. counsel for the applicant and
Shri A.M.Khadatkar, the Id. P.O. for respondents.

2. The applicant submits on records which are below:-

(a) *The applicant is presently working as Associate Professor in the Department of Medicine in Govt. Medical College, Distt – Nagpur.*

(b) *Applicant submits that in absence of any administrative exigency there was no necessity to transfer the applicant in September, 2020. Applicant submits that although he is due for transfer, even Govt. Servant due for transfer were also not subjected for General Transfer to be issued in the Month of April or May, 2020 in view of policy decision of Govt. vide G.R. Dated 23.05.2020, issued by Finance Department. Although this impediment to the Department to transfer is relaxed by subsequent GR Dated 07.07.2020 issued by GAD & permitted transfer in till August, 2020, applicant was not subjected for transfer as provided in said G.R. Copy of G.R. dated 07.07.20 is annexed herewith & marked as **Annexure-A-1 (07.07.2020)**.*

c) *Applicant submits that by impugned order dated **25.09.20 (Annexure-A-2, P.B., Pg. No. 11)**, Respondent No.1 however issued solitary mid-term transfer order transferring him at Chandrapur & by separate order Respondent No.4, transferred in place of applicant on request. Copy of impugned orders dated 25.09.20 are annexed herewith & marked as **Annexure-A-2 (P.B., Pg. No. 11) & A-3 (P.B., Pg. No. 12)**.*

d) *Applicant submits that impugned order reflect that said order is issued in the month of September 2020, on administrative ground. It is submitted that there is no administrative exigency to transfer applicant at Chandrapur in the month of September, 2020, particularly when post at Chandrapur is already occupied by Respondent No. 4, who is working at said place since last 6-7 years. It is submitted that although impugned order of transfer of applicant refer, about compliance of u/s 4(4) & 4(5) of Transfer Act, 2005, to the knowledge of applicant there is no such compliance. It is submitted that in absence of any special reason as required to be recorded & sanction from Superior Competent Transferring Authority on such proposal, the impugned transfer order of applicant during mid session is in breach of mandatory requirement.*

e) *Applicant submits that perusal of transfer order of Respondent No. 4, dated **25.09.20 (Annexure-A-2, P.B., Pg. No. 11)**, it is apparent that in the month of September, 2020, Respondent No. 1, accepted her request for transfer at Nagpur. Applicant is subjected for transfer only to accommodate Respondent No. 4. This act of Respondent No.1 is malafidy action & thus it is apparent that except to accept request of Respondent No. 4 & her accommodation for posting at Nagpur, there is no reason to transfer applicant by impugned order. Applicant learnt that due to*

political pressure, Respondent No. 1 accommodated request of Respondent No. 4 in the month of September, 2020 & issued impugned order.

f) The applicant submits that impugned order showing transfer on administrative exigency is on false pretext & is in breach of Section 4 (5) of the Maharashtra Government Servants Regulation and Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005.

g) The applicant submits that, the order dated 25.09.20 issued by respondent no. 1 transferring the services of the applicant in the mid of Session, without complying mandatory provisions as envisaged in Section 4 of the Act of 2005 vitiate transfer order and smacks malafide action.

h) The respondent no. 1 without recording any special reason as required under Act in the mids of year in the month of September, 2020 , passed impugned transfer order and as such the impugned orders of transfer passed by respondent no. 1 is arbitrary, illegal and in breach of statutory provision.

i) Applicant submits that he is still discharging his duty in the office of Respondent No.3 & still did not handed over charge.

3. The Id. P.O. in his reply submitted on records, which are below:-

“3. It is submitted that, the applicant was due for transfer. The competent authority put before his case to Civil Services Board for transfer and the Civil Services Board recommended his name for transfer. After taking the approval from competent authority the respondents transfer the applicant from Govt. Medical College/ Indira Gandhi Medical College, Nagpur to Govt. Medical College, Chandrapur.

4. It is submitted that, the applicant was working in Government Medical College, Nagpur since 2004 continuously for more than 16 years. Hence, the applicant was due for transfer. It is pertinent to note that, after approval of the competent authority, the applicant was transferred from Government Medical College, Nagpur to Government Medical College, Chandrapur vide Government Order dated 25.09.2020.

6. It is submitted that, the respondent no. 4 i.e. Dr. Chetna Shamkunwar, Associate Professor, Pharmacology working at Government Medical College, Chandrapur as per Govt. order dated 14.10.2015. The respondent no. 4 had made request to transfer her at Government Medical College, Nagpur/ Indira Gandhi Government Medical College, Nagpur as her mother is suffering from Asthma as well as her daughter is small. Her mother and daughter both are depend on respondent no. 4. She has served more than 4 years service at Chandrapur, which is tribal area. Considering her request on sympathetic ground the Government has taken decision to

transfer him to G.M.C. Nagpur, which has become vacant due to transfer of applicant. The said decision has taken with prior approval of the competent authority as per Transfer Act 2005."

4. The Bench has examined the transfer order dated 25.09.2020 (Annexure-A-2, P.B., Pg. No. 11). In this transfer order/ Impugned order, para no. 3 it is crystal clear. Respondents have mentioned that as per Transfer Act, 2005 of Government of Maharashtra, Section 4 (4) (2) and (5) have been followed. Respondents have also filed documents of C.S.B. from P.B., Pg. No. 24 to 81. On P.B., Pg. No. 29, it is explicitly seen that all the competent authorities including Hon'ble Chief Minister has signed and on the left it is clearly mentioned that recommendation of Civil Services Board dated 07.08.2020 in which 27 candidates were included along with 19 more candidates included at Annexure-A have been approved for candidates in Annexure-A i.e. for 19 candidates extra note has been put up on the left side of P.B., Pg. No. 29 which is below:-

"ukxjh l ok eMGkusf'kQkj'kh dyV; k r l p i "B dækd 7 Vho 8 Vhoj i f j f'k"V ^v* e/; si Lrkohr dyV; k i æk.kseW; r t ro l knj"

5. In view of discussions in foregoing paras and facts pointed out by respondents, this Bench does not require to interfere with the order dated 25.09.2020. So, I proceed to pass the following order:-

ORDER

- (i) The O.A. is dismissed.
- (ii) No order as to costs.

Dated :- 02/07/2021.

**(Shree Bhagwan)
Vice-Chairman.**

aps....

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : A.P.Srivastava

Court Name : Court of Hon'ble Vice-Chairman.

Judgment signed on : 02/07/2021.
and pronounced on

Uploaded on : 05/07/2021.