

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 735/2021

Vinod Chandrakant Patil,
Aged about 53 years, Occ :Service,
R/o 83A, Akshat Apartment,
Daga Layout, Nagpur.

Applicant.

Versus

1) The State of Maharashtra,
through its Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai-440 032.

Respondents

Shri S.P. Palshikar, Advocate for the applicant.

Shri A.M. Ghogre, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A. Lovekar, Member (J).

Dated: - 12th January 2022.

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

2. Case of the applicant:-

(i) The applicant was posted as Additional Tribal Commissioner, Amravati on 27.8.2019 (Annexure A-1).

(ii) General Administration Department, Government of Maharashtra has passed the Resolution dated 29.7.2021 (Annexure

A-2) issuing norms and guidelines for transfers which are applicable to general transfers only.

(iii) Anticipating his transfer before completion of normal tenure, the applicant made representation dated 11.8.2021 (Annexure A-3) before the respondent stating therein the places of his choice.

(iv) By order dated 12.8.2021 (Annexure A-4), the applicant has been transferred to Scheduled Caste Scrutiny Committee, Nasik.

(v) Only when one Suresh Wankhede joined in the place of the applicant on 13.8.2021, the applicant came to know about the order of his transfer.

(vi) Suresh Wankhede had also not completed normal tenure at his previous place of posting.

(vii) There was no reason not to consider representation of the applicant favourably since places of his choice given by him were / are vacant.

(viii) As per (Annexure A-5), representation of the applicant was considered in a meeting of Civil Services Board held on 13.8.2021 and his request could not be accepted. Order of transfer of the applicant is dated 12.8.2021. Meeting of the Civil Services Board to consider the representation could not have been held on the very next day.

(ix) Applicant has filed this O.A. on 23.8.2021. In order dated 27.8.2021, this Tribunal observed that it did not find any reason not to consider representation of the applicant dated 11.8.2021, since places of choice given by him were vacant.

(x) On 6.10.2021, applicant filed C.A. No. 322/2021 for direction. To this C.A., orders of transfer dated 6.9.2021 and 9.9.2021 were attached. None of these transfer orders refers to meeting of Civil Services Board which was said to have been held on 13.8.2021. This circumstance indicates that Annexure A-5 cannot be relied upon at all.

(xi) Legitimate claim of the applicant is being defeated time and again by not considering his representation.

3. On the basis of aforesaid grounds the applicant has prayed that his representation be favourably considered and he be transferred to any place of his choice. He has further prayed that record of Civil Services Board's meeting dated 13.8.2021 be called, and communication dated 8.10.2021 based on it (Annexure A-5) be declared to be bad in law.

4. Affidavit in reply of the respondents is at pages 28 to 38. According to the respondents, applicant cannot claim a vested right to be transferred to a place of his choice. It is pointed out that the applicant is yet to join on the transferred place.

5. The applicant has filed affidavit to which certain documents have been attached, to support his case for transfer at any place of his choice. Learned P.O. has pointed out that the applicant has not impugned the order of his transfer dated 12.8.2021. This flaw will be fatal.

6. So far as prayers of the applicant are concerned, the same are opposed to settled position of law that transfer to the place of choice is not a matter of right.

7. For the reasons discussed above, application is liable to be dismissed. Hence, the following order:-

ORDER

1. The Original Application is dismissed.
2. No other as to costs.

(M.A.Lovekar)
Member (J)

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