

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.174 OF 2023**

**SUBJECT : TRANSFER**

Rajendrakumar Anandrao Jadhav, )  
Aged 41 Yrs, Working as Sub-Divisional Officer, )  
Wai, Tal. Wai, Dist. Satara, )  
R/o. Pratapgadh, Sub-Divisional Officer Bunglow )  
Dhom Colony, Wai, Tal, Wai, Dist. Satara. )... **Applicant**

**Versus**

- 1) The State of Maharashtra, )  
Through Additional Chief Secretary, )  
Revenue & Forest Department, (Revenue), )  
Having office at Mantralaya, Mumbai-32. )
- 2) Hemant Vitthal Nikam, )  
Aged 41 yrs, Working as Sub-Divisional )  
Officer, Solapur No.1, Dist. Solapur, )  
Having Office at Solapur, Dist. Solapur. )... **Respondents**

**Shri Arvind V. Bandiwadekar, learned Advocate for the Applicant.**

**Smt. Kranti S. Gaikwad, learned Presenting Officer for the Respondents.**

**CORAM : A.P. KURHEKAR, MEMBER (J)**

**DATE : 23.03.2023.**

**JUDGMENT**

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. The Applicant has challenged transfer order dated 07.02.2023 whereby Respondent No.2 – Hemant V. Nikam is posted in his place without giving any appropriate posting to him (Applicant) invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

3. The Applicant has filed O.A. on 09.02.2023 and Tribunal granted interim relief thereby staying implementation of Transfer order on perusing of file. Para 2 to 6 of the order dated 09.02.2023 are as under:-

“2. The Applicant is serving as Sub Divisional Officer, Wai, Dist. Satara where he was posted by order dated 06.08.2021 but he is displaced by impugned order dated 07.02.2023 whereby Government posted Respondent No.2 in his place leaving the Applicant without posting. The Applicant has therefore filed the present O.A. challenging order dated 07.02.2023 *inter-alia* contending that he is being transferred mid-term and mid-tenure in contravention of Provision of Transfer Act 2005 and prayed for interim relief.

3. Learned P.O. has tendered the file for the perusal of the Tribunal and all that she submits that Respondent No.2 is posted in place of the Applicant in view of the note of the Minister of the Department and it is approved by Hon'ble Chief Minister as a competent authority for such mid-term and mid-tenure transfer.

4. Surprising to note that there was no proposal for the Transfer of Respondent No.2 as well as the Applicant. Matter was placed before the CSB in respect of transfer of 11 other officials but when the file was placed before the Minister of the Department he made certain addition that Respondent No.2 be posted in place of the Applicant and the noting was simply approved by Hon'ble Chief Minister. Thus neither there is recommendation of CSB nor there is any such necessity or administrative reason to displace the Applicant from his present post. *Ex-facie* it is done only to accommodate Respondent No.2. The note of Minister is simply approved by Hon'ble Chief Minister without bothering to see that no such case is made out to displace the Applicant mid-term and mid-tenure. Only because Hon'ble Chief Minister approved transfer that *ex-facto* would not render transfer order legal and valid. Under Section 4 (5) of transfer Act 2005 such mid-term and mid-tenure transfer is permissible only in special case after regarding reasons in writing for the same which is completely missing rather knowingly that there is no such exigency transfer order is issued only to accommodate Respondent No.2 by giving undue favour to him.

5. Suffice to say *ex-facie* impugned transfer order is in blatant contravention of Provision of Transfer Act, 2005 and liable to be stayed immediately.

6. In view of above, interim-relief in terms of Para 10 (a) is granted.”

4. After issuance of notice enough time was availed by the Respondent but no Reply was filed. On previous date i.e. 15.03.2023 last chance was granted with specific direction that no further time will be granted and matter will be heard on next date without fail. However, today again learned P.O. sought time stating that she has not received any instruction from the Respondents despite issuance of letter by her. Nobody is present from the Respondents.

5. In view of above, it is apparent that Respondents are not interested to file Affidavit-in-Reply. Respondent No.2 is also served but did not appear.

6. While granting interim relief by order dated 09.02.2023 the Tribunal has examined all the aspects and also perused file tendered by learned P.O. It was noticed by the Tribunal that *ex-facie* only to accommodate Respondent No.2 the Applicant is displaced from his present post Sub Divisional Officer, Wai. Dist. Satara before completion of his normal tenure. There was neither recommendation of CSB nor there was any such necessity or administrative reasons to transfer the Applicant mid-term and mid-tenure under Section 4 (5) of Transfer Act, 2005. Failure of the Respondents to file Affidavit-in-Reply is also indicative that they have no case to justify the impugned transfer order dated 07.02.2023. *Ex-facie* this is a classic case of favoritism, misuse of power, arbitrariness and blatant violation of Transfer Act, 2005.

7. In view of above, interim order dated 09.02.2023 granting interim relief needs to be made absolute and O.A. deserves to be allowed. The Applicant is unnecessarily dragged to litigation and incurred expenditure on the litigation. Therefore O.A. deserves to be allowed with costs. Hence, the order.

**ORDER**

A) The Original Application is allowed.

- B) Impugned order dated 07.02.2023 is quashed and set aside.
- C) Respondent No.1 shall pay cost of this O.A., quantified of Rs.20,000/- (Rupees Twenty Thousand Only) to the Applicant and it be deposited in the Tribunal within a month from today.

**Sd/-**  
**(A.P. Kurhekar)**  
**Member (J)**

Place: Mumbai  
Date: 23.03.2023  
Dictation taken by: N.M. Naik.

Uploaded on: \_\_\_\_\_