

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 439/2016

Ravindra S/o Kondbaji Padgelwar,
Aged about 50 years, Occ. Talathi,
R/o Gadpipri, Tq. Chimur,
Distt. Chandrapur.

Applicant.

Versus

- 1) State of Maharashtra
through its Secretary,
Revenue Department,
Mantralaya, Bombay-32.
- 2) Sub-Divisional Officer, Chimur,
Distt. Chandrapur.
- 3) Tahsildar, Chimur,
Distt. Chandrapur.
- 4) Ghansham S/o Dadaji Kirimkar,
Occ. Talathi, R/o Wadala (Paiku),
Tq. Chimur, Distt. Chandrapur.

Respondents

Shri P.V. Thakre, Advocate for the applicant.

Shri V.A. Kulkarni, P.O. for the respondent nos. 1 to 3.

None for R-4.

Coram :- Hon'ble Shri R.B. Malik, Member (J).

Dated :- 09/02/2017.

ORAL ORDER -

Heard Shri P.V. Thakre, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. P.O. for R-1 to 3. None for R-4.

2. This O.A. seeks to question the order of transfer of the applicant who is a Tahsildar from Gadpipri to Wadala (Paiku) vice the respondent no.4 who was to be the successor of the applicant at Gadpipri.

3. I have perused the record and proceedings and heard Shri P.V. Thakre, Id. counsel for the applicant and Shri V.A. Kulkarni, Id. P.O. for R-1 to 3.

4. The learned counsel for the applicant relied upon the relevant provisions of the proviso of Section 3 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter 'Transfer Act').

5. It is not really necessary to closely examine any aspect of the matter because as far as I am concerned this controversy is fully governed by and can be disposed in terms of an order of Division Bench of High Court of Judicature at Bombay, Bench at Nagpur in W.P. No.3740/2009 (**Umesh S/o Wamanrao Rahate Vs. The State of Maharashtra & Ors.**), dated 18th June, 2010. In that Judgment affirming the Judgment of this Tribunal, Their Lordships held that the

proviso is in the manner of speaking is not mandatory and it is only an enabling provision and therefore the order of transfer issued after the first tenure of three years is a good order legally. This Judgment of the Hon'ble High Court became the basis of the decision of O.A. No. 277/2016 (**Bharat Dallu Sable Vs. Government of Maharashtra & 2 ors.**), dated 14th June, 2016 in dismissing the said O.A. Therefore this O.A. will also have to be dismissed. It is however made clear that for the new transfer session if the applicant were to make a representation with regard to his posting etc., this order shall not come in his way and the authorities shall be free to take an appropriate decision on merit as they visualise it. With these terms, the O.A. hereby stands dismissed with no order as to costs.

(R.B.Malik)
Member (J).

dnk.