

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION No. 387 of 2018 (SB)

Devanand Chaituji Bhanarkar,
Aged about 44 years,
Occ. Service, R/o Mandhal,
Tahsil Kuhi, District Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
through its Principal Secretary,
Forest Department,
Mantralaya, Mumbai-32.
- 2) The Deputy Conservator of Forest,
Nagpur Division, near Zero Mile Stone,
Civil Lines, Nagpur.
- 3) The Range Forest Officer,
North Umred Range, Tahsil Umred,
District Nagpur.

Respondents

S/Shri D.M. Kakani, G.K. Bhusari, Advocates for the applicant.

Shri V.A. Kulkarni, learned P.O. for the respondents.

WITH

ORIGINAL APPLICATION No. 388 of 2018 (SB)

Sanjay Rajeram Meshram,
Aged about 44 years,
Occ. Service, R/o Ghodimare Layout,
Nagpur Umred Bypass road, Umred,
Tq. Umred, District Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
through its Principal Secretary,
Forest Department,
Mantralaya, Mumbai-32.
- 2) The Deputy Conservator of Forest,
Nagpur Division, near Zero Mile Stone,
Civil Lines, Nagpur.
- 3) The Range Forest Officer,
South Umred Range, Tahsil Umred,
District Nagpur.

Respondents

S/Shri D.M. Kakani, G.K. Bhusari, Advocates for the applicant.

Shri V.A. Kulkarni, learned P.O. for the respondents.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

COMMON JUDGMENT

(Delivered on this 7th day of August,2018)

Heard Shri G.K. Bhusari, learned counsel for the applicants and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. In O.A.387/2018 the applicant Shri Devanand C. Bhanarkar has been transferred from the post of Forest Guard from North Umred Range, Salwa Beat, Round Kuhi to East Pench Range, Piparia, Sillari Round vide impugned order dated 31/05/2018 passed by the respondent no.2. Whereas, vide same impugned order, the applicant in O.A.No.388/2018 Shri Sanjay R. Meshram has been transferred from South Umred Range, Mandwa Beat, Round Chargaon to Saleghat (Wild Life) Round, North Saleghat Beat. Both these orders have been challenged in these O.As. The issue involved in both these O.As. being similar, the same are being disposed of by this common order.

3. Since it was stated that the guidelines issued vide G.R. dated 09/04/2018 has not been followed, status-quo was granted to the impugned orders of transfer and the said status-quo is continued till today.

4. According to the applicants, they have been transferred without following the guidelines issued in the G.R. dated 9/4/2018. As per the said G.R. counselling is must and thereafter the choices given by the employees are to be considered. However, the applicants were not called for counselling and they have been transferred to the place other than the place of their choice. The respondent nos. 2 and 3 by filing

separate affidavits in both the O.As., have accepted the fact that the applicants were not transferred on the posts of their choice. It is stated that the Civil Service Board comprising of reasonably senior officers have taken decision to transfer the applicants and as per the government policy. There are various administrative wings namely, Territorial, Social Forestry, Wildlife etc. and it is desired that the services of the employees are rotated across various wings of the organization and experience gained by the employees is required to be utilised for administrative purposes. The applicants have completed more than four years in their respective Beats and therefore they have been transferred on administrative ground considering their experiences and the administrative convenience.

5. From the admitted facts on record, it is clear that the applicants were due for transfer and they have given 10 places of their choice for transfer. It is also admitted that none of the applicants have been transferred on the given post of choice. The reason for asking for 10 places of choice for transfer and the counselling to be done is only to see that the transfer orders are passed transparently and no favouritism has been done. In the present case however it is admitted fact that the applicants were not called for counselling. The G.R. dated 9/4/2018 (Annex-A-2)

clearly shows that the counselling is necessary, if the order of transfer is to be passed by way of annual general transfers. However, such counselling is not necessary if the orders are passed in mid-term and as per the administrative convenience. Even though the guidelines in the G.R. dated 9/4/2018 can be said to be discretionary, there is no reason as to why the applicants were not called at all for counselling. The learned P.O. submits that the applicants have not given choice of their postings as per the G.R. dated 9/4/2018. In my opinion the competent authority should have called the applicants for counselling and should have stated as to why the applicants were not considered for their choice postings. Transferring the applicants on the place which is not their choice without counselling is not proper and therefore on this count only the impugned order of transfer in respect of the applicants is not legal. Hence, I pass the following order :-

ORDER

The impugned order dated 31/05/2018 issued by respondent no.2 so far as the transfer of applicant Shri Devanand C. Bhanarkar from North Umred Range, Salwa Beat, Round Kuhi to East Pench Range, Piparia, Sillari Round, so also the impugned order of applicant Shri Sanjay R. Meshram i.e. his transfer from South Umred Range, Mandwa Beat, Round Chargaon to Saleghat

(Wild Life) Round, North Saleghat Beat is concerned is quashed and set aside. The respondent no.2 shall give an opportunity to the applicants to be remain present before him for counselling and necessary orders may be passed after counselling considering the applicants' claim, administrative convenience and various administrative guidelines on its own merits. Such order shall be passed within two months from the date of this order and till that time the applicants shall be allowed to continue to work at their respective place of postings. No order as to costs.

Dated :- 07/08/2018.

**(J.D. Kulkarni)
Vice-Chairman (J).**

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