

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 675 of 2021(S.B.)

Santosh S/o Mahadeo Tayde,
Aged about 48 years, Occ. Service,
R/o Ward No.1, Nandura, Tah. Nandura, District Buldana.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-400 032.
- 2) Inspector General of Registration and Controller
of Stamps, New Administrative Building,
Opp. of old Councils Hall, Pune-01.

Respondents.

Shri A.P. Sadavarte, Advocate for the applicant.
Shri S.A. Sainis, P.O. for respondents.

WITH
ORIGINAL APPLICATION No. 676 of 2021(S.B.)

Mangesh S/o Popat Chaudhari,
Aged about 53 years, Occ. Service,
R/o Room No.18, Vitthal Residency,
Mahananda Area, Risod, District Washim.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-400 032.
- 2) Inspector General of Registration and Controller
of Stamps, New Administrative Building,
Opp. of old Councils Hall, Pune-01.

Respondents.

Shri A.P. Sadavarte, Advocate for the applicant.
Shri A.M. Khadatkhar, P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Date of Reserving for Judgment : 30th November, 2021.

Date of Pronouncement of Judgment : 8th December, 2021.

JUDGMENT

(Delivered on this 8th day of December, 2021)

Heard Shri A.P. Sadavarte, learned counsel for the applicants and Shri S.A. Sainis / A.M. Khadatkar, learned P.Os. for the respondents.

2. In both the O.As., common relief is sought by the applicants who are working as Sub Registrar.

3. The applicant in O.A. 675/2021 was promoted and posted as Sub Registrar, Grade-I (Group-B) at Motala, District Buldana as per order dated 15/5/2017. Since then he is working at Motala. On 30/7/2021, the respondent no.2 has called options for place of posting in view of the guidelines mentioned in G.R. dated 9/4/2018. On 30/7/2021, the applicant has submitted 10 choices of posting for transfer from Motala. Without considering G.R. dated 9/4/2018 and Notification dated 14/7/2021, the applicant is transferred from Motala, District Buldana to Wani, Dist. Yavatmal by the impugned transfer

order dated 9/8/2021, therefore, he has challenged the said order in this O.A. and prayed to quash and set aside the impugned order.

4. In O.A. 676/2021, the applicant was promoted and posted as Sub Registrar, Grade-I (Group-B) at Lonar, District Buldana as per order dated 15/5/2017. Since then he is working at Lonar. On 30/7/2021, the respondent no.2 has called options for place of posting in view of the guidelines mentioned in G.R. dated 9/4/2018. On 31/7/2021 the applicant has submitted 10 choices of posting for transfer from Lonar. Without considering the G.R. dated 9/4/2018 and Notification dated 14/7/2021, the applicant is transferred from Lonar, District Buldana to Darwha, Dist. Yavatmal by the impugned transfer order dated 9/8/2021, therefore, he has challenged the said order in this O.A. and prayed to quash and set aside the impugned order.

5. In O.A. 675/2021, this Tribunal has passed the order dated 17/8/2021. The para-2&5 are as follows –

“2. *The ld. P.O. is relying on G.R. dated 09.04.2018 (A-A-4, Pg. No. 29). However, the ld. counsel for the applicant has placed on record notification dated 14.07.2018 (A-A-5, Pg. No. 51); in para no. 8 (Pg. No. 54), under the heading, period of service to be spent in allotted Revenue Division is mentioned as below:-*

“8. **Period of service to be spent in allotted Revenue Division:-** *The officers in Group-A and Group-B appointed either by direct recruitment or by promotion shall complete the following length of service in the concerned allotted Revenue Division.*

<i>Group (1)</i>	<i>Tenure of service (2)</i>
<i>Group A</i>	<i>3 Years</i>
<i>Group B (Gazetted/ Non Gazetted)</i>	<i>3 Years</i>

“*Note:-Before the publication of these rules in the Official Gazette, the officers who have been allotted Revenue Division as per the provisions of the Revenue Division Allotment for appointment by*

nomination and promotion to the posts of Group "A" and Group "B" (Gazetted and Non-Gazetted) of the Government of Maharashtra Rules, 2015, such officers shall be eligible for transfer as per the Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (Mah. XXI of 2006), provided they have completed the length of service in the concerned Revenue Division as specified in these Rules.

5. *However, it is pointed out that order itself was illegal as per Transfer Act. Since, the respondents have not followed the procedure laid down in the Transfer Act, 2005 by going through C.S.B. meeting which is not on record and applicant's choices which have been given 10 choices as per Government Policy. **The order dated 09.08.2021 (A-A-6, Pg. NO. 60) is illegal and it is stayed till filing of the reply.** Meanwhile, respondents are at liberty to consider the applicant's representation dated 30.07.2021 (A-A-2, Pg. Nos. 27 & 28)".*

6. In O.A. 675/2021, this Tribunal has passed the order dated 8/9/2021. The para-3 is as follows –

"3. As the impugned order 9/8/2021 (A-6,P-60) is illegal, the respondents are directed to join the applicant at Motala as per Tribunal's order dated 17/08/2021".

7. In O.A. 676/2021, this Tribunal has passed the order dated 8/9/2021. The para-2 is as follows –

"2. As per order dated 9/8/2021 (A-6,P-60) the applicant was transferred from Lonar to Darwa, Dist. Yavatmal on administrative ground. Aggrieved with this order, the applicant has approached to this Tribunal. The said matter was heard on 17/8/2021 by this Tribunal and it was mentioned that the applicant's representation dated 31/7/2021 (A-3,P-27&28) was not considered and till consideration of the applicant's representation, the order dated 9/8/2021 was stayed and the applicant should continue at Lonar. The respondents are directed to continue the applicant at Lonar till decision on the representation or filing of reply".

8. Both the O.As. are strongly opposed by the respondents by filing reply. It is submitted that they have completed three years of service at their respective postings, therefore, they are transferred as per the Section 3 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as "Transfers Act,2005").

9. Heard learned counsel for the applicants and learned P.O. for the respondents. There is no dispute that both the applicants are

working on the post of Sub Registrar, Grade-I (Group-B) at Motala / Lonar, District Buldana. Both the postings are in Amravati Division. There are other seven divisions as per the G.R. As per the G.R. of 2018 guidelines are given for posting of the employee from one division to other division. The recent Notification is 14/7/2021. In Clause-7&8 of the said Notification, the specific criteria is given for transfer of the employees. The Clause nos.7&8 are as follows-

7. Cases for which exemption from Revenue Division Allotment is admissible.- (1) There shall be exemption to the officer from Revenue Division Allotment in the following circumstances,-

- (a) the officer who is physically challenged;
- (b) the officer whose spouse or his child is mentally retarded or the officer who is guardian of his brother or sister, are mentally retarded;
- (c) the officer who is legally proven as a single parent;
- (d) the officer having 3 years or less than 3 years period for superannuation from the date of recommendation by the Departmental Promotion Committee, for their promotion.

8. Period of service to be spent in allotted Revenue Division.— The officers in Group A and Group B appointed either by direct recruitment or by promotion shall complete the following length of service in the concerned allotted Revenue Division.

Group (1)	Tenure of Service (2)
Group A	3 Years
Group B (Gazetted / Non-Gazetted)	3 Years

Note.—Before the publication of these rules in the *Official Gazette*, the officers who have been allotted Revenue Division as per the provisions of the Revenue Division Allotment for appointment by nomination and promotion to the posts of Group “A” and Group “B” (Gazetted and Non-Gazetted) of the Government of Maharashtra Rules, 2015, such officers shall be eligible for transfer as per the Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (Mah. XXI of 2006), provided they have completed the length of service in the concerned Revenue Division as specified in these rules.

10. There is no dispute that the applicants have completed three years their respective services at Motala and Lonara. In view of the Govt. Notification 14/7/2021, they are entitled of their postings in other divisions. This Tribunal has specifically directed the respondents

to transfer the applicants as per their representations. Prima facie, it appears that the respondents have not followed their own G.R. and Notification about the posting of the employee from one division to other division by calling the choices of respective employees. The Govt. Notification dated 14/7/2021 is very clear. The applicants who are working as Sub Registrar, Grade-I (Group-B) have completed three years service at Motala/ Lonara in view of the provisions of Clause-8 of the said Notification, they are entitled for transfer in other divisions as per choices given in their representations.

11. In that view of the matter, the following order is passed-

ORDER

- (i) The O.As. are allowed.
- (ii) The impugned transfer orders are hereby quashed and set aside.
- (iii) The respondents are directed to consider the request letter/ choice posting dated 30/7/2021 and representation dated 10/8/2021 of applicant, i.e., Mr. Santosh M. Tayade in O.A. 675/2021 and the request letter/ choice posting dated 31/7/2021 and representation dated 10/8/2021 of applicant, i.e., Mr. Mangesh P. Chaudhari in O.A. 676/2021.
- (iv) No order as to costs.

Dated :- 08/12/2021.

(Justice M.G. Giratkar)
Member (J).

*dnk..

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 08/12/2021.

Uploaded on : 08/12/2021.