

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 761 of 2020**  
**WITH CIVIL APPLICATION No. 210/2021 (SB)**

Kishor Pandurang Thakre,  
Aged about 37 years,  
R/o Murumgaon, Tah. Aheri, District Gadchiroli.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Department of Revenue and Forest,  
Mantralaya, Mumbai.
- 2) Collector, Gadchiroli.
- 3) Divisional Commissioner,  
Nagpur Division, Nagpur.
- 4) Tahsildar, Dhanora.
- 5) T.B. Gudhade,  
Awal Karkoon, Office of Collector,  
District Gadchiroli.

**Respondents.**

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**Shri N.R. Saboo, Advocate for the applicant.**  
**Shri V.A. Kulkarni, learned P.O. for respondent nos.1 to 4.**  
**None for respondent no.5.**

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

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**WITH**

**ORIGINAL APPLICATION No. 762 of 2020**  
**WITH CIVIL APPLICATION No. 212/2021 (SB)**

Someshwar Sukru Barsagde,  
Aged about 54 years,  
R/o Gadchiroli, District Gadchiroli.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Department of Revenue and Forest,  
Mantralaya, Mumbai.
- 2) Collector, Gadchiroli.
- 3) Divisional Commissioner,  
Nagpur Division, Nagpur.
- 4) Tahsildar, Gadchiroli.
- 5) A.K. Bodele,  
Awal Karkoon, Tasil Office, Kurkheda  
District Gadchiroli.

**Respondents.**

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**Shri N.R. Saboo, Advocate for the applicant.**  
**Shri V.A. Kulkarni, learned P.O. for respondent nos.1 to 4.**  
**None for respondent no.5.**

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

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**Date of Reserving for Judgment : 29<sup>th</sup> March,2022.**  
**Date of Pronouncement of Judgment : 7<sup>th</sup> April,2022.**

**COMMON JUDGMENT**

**(Delivered on this 7<sup>th</sup> day of April, 2022)**

Heard Shri N.R. Saboo, learned counsel for the applicants and Shri V.A. Kulkarni, learned P.O. for respondent nos.1 to 4. None for other respondents.

2. The grievances of both the applicants are common. They have sought same relief. Hence, both the O.As. are decided by this common Judgment.

3. The applicant Shri Kishor P. Thakre in O.A. 761/2020 is working on the post of Circle Officer. He was posted as Circle Officer at Murumgaon, Tah. Aheri, District Gadchiroli vide order dated 7/11/2015. Without any authority, in mid-term by order dated 28/7/2020, the respondent no.2 issued order of transfer of applicant whereby he was transferred from the post of Circle Officer to the post of Awal Karoon at Kurkheda. The applicant has challenged the order of transfer before this Tribunal in O.A.No.394/2020. Vide order dated 30/7/2020, this Tribunal passed the order of status-quo in favour of the applicant. This Tribunal has finally decided the legality of the transfer order dated 28/7/2020 and by common order dated 20/10/2020 quashed the said order holding that the respondent no.2 cannot change the cadre of applicant from the post of Circle Officer to the post of Awal Karkoon. This Tribunal also found that there is no compliance of provisions of Section 4 (4) (ii) & 4 (5) of the Maharashtra Government Servants Regulation of Transfers and

Prevention of Delay in Discharge of Official Duties Act, 2005 (in short "Transfers Act,2005"). This Tribunal also found that recourse to G.R. dated 21/11/1995 is misconceived and the provisions of Transfers Act,2005 is to be abided.

4. It is submitted that respondent no.2 vide order dated 9/11/2020 shown the compliance of the order dated 20/10/2020 passed by this Tribunal and directed the applicant to resume on his former post as Circle Officer, Murumgaon. The respondent no.2 however on the same day issued another communication dated 9/11/2020 calling the applicant to remain present at the office of respondent no.2 for his transfer from the post of Circle Officer, Murumgaon to the post of Awal Karkoon. The communication dated 9/11/2020 issued by respondent no.2 is not in conformity of order dated 20/10/2020 issued by this Tribunal. The respondent no.2 has issued order dated 9/11/2020 to show the compliance and again on the same day, the applicant was directed to remain present for transfer on the post of Awal Karkoon. The duties of the post of Circle Officer and Awal Karkoon are different. The Circle Officer cannot be transferred to the post of Awal Karkoon, therefore, this Tribunal has come to the conclusion that G.R. of 1995 is not proper.

5. During the pendency of O.A., the respondents / authority Collector, Gadchiroli adopted modus operandi to float the order dated

10/11/2020 passed by this Tribunal and issued identical communication on 19/7/2020 by referring same reference to transfer applicant from Circle Officer to Awal Karkoon. The applicant immediately brought to the notice of respondent no.2 about pendency of the present O.A. and fact of granting stay order dated 10/11/2020.

6. It is submitted that the applicant has not handed over charge of the post of Circle Officer, Murumgaon till date. Therefore, prayed to stay the effect and operation of impugned order dated 23/7/2021 issued by Collector, Gadchiroli transferring him from the post of Circle Officer, Gadchiroli to the post of Awal Karkoon, Gadchiroli and quash and set aside the impugned order dated 23/7/2021 issued by respondent i.e. Collector, Gadchiroli transferring the applicant from the post of Circle Officer, Murumgaon to the post of Awal Karkoon, Kurkheda.

7. The application is opposed by the respondents / authority. It is submitted that common Judgment passed by this Tribunal dated 20/10/2020 has been duly complied by respondent no.2. It is submitted that the earlier impugned transfer orders were issued in consonance with the Govt. G.R. dated 21/11/1995. However, the issue has to review of the said interchange scheme was under consideration of the Government for quite some time and pursuant to which a meeting was held on 1/10/2020 under the Chairmanship of

the Revenue Minister wherein direction for implementation of G.R. dated 21/11/1995 was issued. As per the direction issued in letter dated 9/10/2020, the intention of Government was to continue the said scheme. Now as per the G.R. dated 21/11/1995, the post of Circle Officer is to be interchanged to the post of Awal Karkoon and vice versa. As per the G.R. dated 29/10/2020, it has been directed to follow the direction dated 4/4/2018 issued by this Tribunal, Bench at Aurangabad.

8. In short, the respondents / authority have submitted that the scheme of transfer from the post of Circle Officer to Awal Karkoon and vice versa as per the G.R. dated 21/11/1995 is continued, therefore, the transfer of applicant from the post of Circle Officer to the post of Awal Karkon is legal and proper.

9. The applicant Shri Someshwar S. Barsagde in O.A. 762/2020 was working as a Circle Officer. He was transferred to the post of Awal Karkoon. He has challenged the said order in O.A.394/2020 before this Tribunal. The said transfer order was cancelled. The order of this Tribunal was complied on 9/11/2020, but again on the same day, he was called for transfer to the post of Awal Karkoon. Vide order dated 28/7/2020, he is transferred from the post of Circle Officer, Gadchiroli to the post of Awal Karkoon in the office of Collector, Gadchiroli.

10. Both the applicants had filed O.As. before this Tribunal. This Tribunal by common Judgment dated 20/10/2020 quashed and set aside the impugned transfer order. This Tribunal has observed in para nos.6,7,9,11 & 12 as under –

*“6. In order to decide the controversy, it is necessary to examine the first contention whether the respondents were authorized to interchange the post of Circle Officer to Awwal Karkun and vice versa. The para-2 of the G.R. dated 21/11/1995 is as under –*

*^ nku fHkUu egl ny foHkxke/; sojhy i nl d; ; r cny djko; kpsvl rhy rj R; kl d/dhps vf/kdkj 'kkI ukl jkghy- ek= I áwz jkT; ke/; s; k 2 I dxkúthy ijLij vnyknyhus Hkjko; kP; k i nkph I d; ; k gh i R; d I dxkú k Bh 600 brdhp dk; e jkghy o 2 I dxkú d h dkskr; kgh I dxkúthy , duk rKRijR; k i nkph I d; ; k deh vFkok tkLr >kyh rjh ijLij vnyknyhus Hkjko; kP; k i nkP; k I d; ; r cny gskkj ukgh- eMG vf/kdkjh I dxkúthy i nkckr o depkjhoñ jpusckr vñre fu.kz gkbñ ; r gh i/nrh pkywjkgghy- ; k nkúgh I dxkúthy i ns ijLij vnyknyhus Hkj. ; kph fdz; k gh nkúgh I dxkú; k ckcrhr , dkp oGh veykr vk.k. ; kr ; koh- \*\**

*7. The last four lines of this para-2 are very much specific. These lines say that till the approval of the staffing pattern, this arrangement regarding to the post of Mandal Officers be enforced.*

*9. Now it is undisputed that the staffing pattern was approved by the Government of Maharashtra for the first time in the year 2006. After perusal of the G.R. dated 20/3/2006 it seems that so far as the Revenue Department is concerned, the Government of Maharashtra approved the new staffing pattern for the offices of the Revenue Commissioner,*

*Collector, Sub Divisional Officer, Tahsildar, Circle Officer and Talathi office. Secondly, in the year 2009 then Collector, Gadchiroli wrote letter dated 26/10/2009. This letter shows that as per the approved staffing pattern there were 40 posts of Circle Officers in Gadchiroli District. On the basis of this material, it can be safely said that the staffing pattern was approved by the Government of Maharashtra. Now the substantial question is whether after approval of the staffing pattern the respondents can place reliance on the G.R. dated 21/11/1995 for interchanging the cadre of Circle Officer and Awwal Karkun. I have already discussed that this G.R. was permissive and permission was given to interchange the post i.e. cadre of Circle Officer and Awwal Karkun only for limited period i.e. till the approval of the staffing pattern and this power was to be exercised only once, therefore, once a staffing pattern came in existence it does not lie in the mouth of the respondents that they have authority to exercise the same power as per 21-11-1995 G.R..*

11. *In the present matter it is undisputed that all the applicants entered the service as Talathi, lateron they were promoted on the post of Circle Officer and once the staffing pattern was approved and confirmed by the Government. Now who gave right to the respondents to change the cadre of Circle Officer as Awwal Karkun and cadre of Awwal Karkun as Circle Officer. It must be remembered that nature of their duties are totally different. Once it is accepted that after approval of the staffing pattern, the G.R. dated 21/11/1995 ceases to operate, therefore, it is not possible to justify the action of the Government. I*



*therefore, hold that the transfer orders issued by the respondent no.2 to implement the policy of the Divisional Commissioner to interchange 11 posts of Circle Officer/ Avval Karkoon in Gadchiroli District are contrary of law and cannot be sustained.*

12. *In addition, it is undisputed that the applicants in O.A. Nos. 388, 389, 390, 391 and 392 of 2020 were not due for transfer. The legal position is settled that if the Government is intending to transfer any Government servant before the completion of normal tenure, it is mandatory to fulfil the requirements under Section 4 (4) & (5) of the Transfers Act, 2005. In the present case admittedly those requirements are not fulfilled. The respondent no.2 is putting finger on the Govt. G.R. dated 7/7/2020. In my opinion, the Govt. G.R. cannot override the statute, on the contrary even after reading that G.R., it seems that specific directions were given to consider the provisions under the Transfers Act,2005”.*

And quashed the impugned transfer orders and directed respondent no.2 to post the applicants on the same post which were held by them before issuance of the impugned orders.

11. There is no dispute that initially respondent no.2 complied the order of this Tribunal, but on the same day changed stand by impugned orders and both the applicants were transferred from the post of Circle Officer to the post of Awal Karkoon.

12. The learned counsel for the applicant Shri N.R. Saboo pointed out Section 14 of the Maharashtra Land Revenue Code, 1966. The duties of Circle Officer are different from the post of Awal Karkoon. As per the Section 14 of the said Code, the duties of Circle Officer and Talathi are given in Section 14 (2) and (3) which are reproduced below -

**“ (14) Powers and duties of survey officers, circle officers, etc. (1) Subject to the orders of the State Government, the survey officers are vested with the cognisance of all matters connected with the survey, settlement and record of rights and shall exercise all such powers and perform all such duties as may be provided by this Code or any law for the time being in force :**

*Provided that, a Deputy Director of Land Records shall exercise such powers and discharge such duties and functions, as are exercised or discharged by the Director of Land Records under this Code or under any law for the time being in force in such cases or classes of cases, as the State Government or Director of Land Records may direct.*

**(2) The Circle Officer and the Circle Inspector in charge of a circle shall exercise such powers over the Talathi in his circle and perform such duties and functions as may from time to time be prescribed.**

**(3) The Talathi shall be responsible for the collection of land revenue and all amounts recoverable as arrears of land revenue, and for the maintenance of the record of rights and shall perform all such duties and functions as are hereinafter provided by this Code or any law for the time being in force or by order of the State Government.”**

13. It is a matter of common sense that Talathis are posted in the villages to keep the record of land revenue etc. He has to maintain 7/12 extract. Talathi has to collect land revenue and all amounts recoverable as arrears of land revenue and shall perform all other duties as per the directions given by their Superior Officer.

14. The Circle Officer is the Superior Officer of the Talathi. He has to supervise 4-5 Talathis in a Circle. Therefore, the duties of Awal Karkoon and Circle Officer are different. Awal Karkoons are the superior post of the Clerks, they used to seat in the office and do the clerical work, whereas, the Talathis and Circle Officers have to perform their field duties and their works are related with the agricultural land etc. more particularly to collect the land revenue, prepare 7/12 extract. The work of mutation is to be done by Talathi and Circle Officer is to certify the mutation entries. Therefore, it cannot be said that the works of Circle Officer and Awal Karkoon are same.

15. Looking into consideration the nature of work, this Tribunal has quashed and set aside the earlier transfer orders of the applicants from the post of Circle Officer to the post of Awal Karkoon. There is no dispute that order passed by this Tribunal dated 20/10/2020 is not challenged before the Hon'ble High Court. It appears that the respondents / authority are committing the contempt of the order of

this Tribunal dated 20/10/2020. In that view of the matters, following order –

**ORDER**

- (i) The O.As. are allowed.
- (ii) The impugned transfer orders from the post of Circle Officer to the post of Awal Karkoon are hereby quashed and set aside.
- (iii) The respondent no.2 is directed to post the applicants on the same post which they were held as a Circle Officer before the impugned transfer orders.
- (iv) The C.As. are also stand disposed off accordingly.
- (v) No order as to costs.

**Dated** :- 07/04/2022

**(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 : 07/04/2022

Uploaded on : 08/04/2022