

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 678 of 2023
WITH CIVIL APPLICATION No. 542 of 2023 (SB)

Shri Sanjay S/o Dhanraj Ganvir,
Aged about 45 yrs., Occu. Service,
R/o. Behind United Hospital, Gondia.

Applicant.

Versus

- (1) The State of Maharashtra,
through its Secretary, Department of Women &
Child Development, Mantralaya, Mumbai-32.
- (2) The Commissioner,
Women & Child Development,
Commissionerate, Pune.
- (3) Shri M. N. Kulsunge,
Age: Major, Occu. : Service, R/o C/o. Zilla Parishad,
Bhandara.
- (4) Bhagwat Gopala Tambe,
Aged 48 years, Occ: District Programme Officer,
R/o 138, Alankar Nagar, Manewada Besa Road, Nagpur-440 034.

Respondents.

Shri G.G. Bade, Advocate for applicant.
Shri S.A. Sainis, learned P.O. for respondent nos.1 and 2.
S/Shri S.S. More, R. Shende, V. Wankhede, Adv. resp.no.3.
Shri P.S. and K.P. Wathore, Advs. for resp.no.4.

WITH

ORIGINAL APPLICATION No. 1249 of 2023 (SB)

Bhagwat Gopala Tambe,
Aged 48 about Occ- Serving as District Programme Officer,
R/o- 138, Alankar Road, Manewada Besa Road, Nagpur.

Applicant.

Versus

- (1) The State of Maharashtra,
Through its Secretary, Department of Women &
Child Development, Mantralaya, Mumbai-32.

- (2) Commissioner, Women & Child Commissionerate,
Pune.
- (3) Commissioner, Integrated Child Development Scheme,
Mumbai.
- (4) Zilla Parishad, Nagpur, through its Chief Executive Officer,
- (5) Zilla Parishad, Bhandara, through its Chief Executive Officer,
Bhandara.
- (6) Smt. M. N. Kulsunge, Aged about 40 yrs, Occ- Service
R/o C/o Zilla Parishad, Bhandara.

Respondents.

**N.R. Saboo, K.N. Saboo, A. Lanjewar, Advocates for applicant.
Shri S.A. Sainis, learned P.O. for respondent nos.1 to 3.
S/Shri S.S. More, R.V. Shende, Advs. for resp.no.6.
Shri S.W. Deshpande, A. Khadatkhar, Advs. for resp.no.4.
Shri R.S. Khobragade, Adv. Respondent no.5.**

**Coram :- Hon'ble Shri M.A. Lovekar,
Member (J).**

**Date of Reserving for Judgment : 7th February, 2024.
Date of Pronouncement of Judgment : 15th February, 2024.**

COMMON JUDGMENT

(Delivered on this 15th day of February, 2024)

Heard Shri G.G. Bade, learned counsel for the applicant,
Shri S.A. Sainis, learned P.O. for the respondent nos.1 and 2, Shri
S.S. More, learned counsel for respondent no.3 and Shri P.S.
Wathore, learned counsel for respondent no.4. (in O.A.No.678/2023).

2. Heard Shri N.R. Saboo, learned counsel for the applicant, Shri S.A. Sainis, learned P.O. for respondent nos.1 to 3, Shri S.S. More, learned counsel for respondent no.6, Shri A. Khadatkar, learned counsel for respondent no.4 and Shri R.S. Khobragade, learned counsel for respondent no.5. (in O.A.No.1249/2023).

3. These two connected O.As. are being decided by this common Judgment.

4. Private parties shall be hereinafter referred to by their names for the sake of clarity and convenience.

5. Shri S.D. Ganvir, District Programme Officer, Gondia was transferred to Ratnagiri - Sindhudurg on vacant post of Child Development Project Officer. Smt. Kulsunge, District Programme Officer, Bhandara was transferred to Gondia on the post held till then by Shri S.D. Ganvir. Shri B.G. Tambe, District Programme Officer, Nagpur was transferred to Bhandara on the post held till then by Smt. Kulsunge. All these orders were passed on 30/06/2023.

6. In O.A.No. 678/2023 Shri S.D. Ganvir has challenged orders of his transfer as well as that of Smt. Kulsunge. According to him, while transferring him, options given by him were not considered and thereby a guideline contained in G.R. dated 06/08/2002 was breached. His further contention is that he was transferred contrary to

recommendation of Civil Services Board and while differing from said recommendation the Transferring Authority did not record reasons.

7. O.A.No.1249/2023 is filed by Shri B.G.Tambe. It is his grievance that he was relieved from Nagpur to join on the transferred post at Bhandara, but he was not allowed to join on the post because of interim order passed by this Tribunal on 03/07/2023 staying the effect and implementation of transfer order of Shri S.D. Ganvir. Principal relief claimed by Shri B.G. Tambe is to direct the respondents to permit him to join on the post of District Programme Officer, Bhandara. Relief claimed by him in the alternative is that the respondents be directed to permit him to discharge his duties as District Programme Officer, Nagpur. It is his grievance that he has been kept in a hanging position, he has not received salary for the period after 31/08/2023 and respondents be directed to release his unpaid salary.

8. Stand of Smt. Kulsunge is that she was prepared to join on the transferred post, but she could not do so because of stay granted by this Tribunal to transfer order of Shri S.D. Ganvir.

9. Case of Shri S.D. Ganvir is founded on guidelines contained in G.R. dated 06/08/2002. To meet this case contesting respondents have contended that Circular of G.A.D., Government of Maharashtra dated 07/06/2006 which refers to the Maharashtra

Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short "Transfers Act,2005") coming into force w.e.f. 01/07/2006, and scrupulous observance of provisions contained in it has in effect superseded the guidelines contained in G.R. dated 06/08/2002. In Judgment dated 23/03/2022 in O.A.No.684/2021, in para-7, this Bench has observed that G.R. dated 06/08/2002 has not been stayed, it continues to operate and hence it has to be followed. In this Judgment it is further observed that this G.R. gives certain benefits to employees serving in naxal / tribal areas including that of getting posting as per choice. On 24/04/2023 the applicant had given three choices viz. Bhandara, Nagpur and Aurangabad (Annex-A-7 in O.A.No.678/2023).

10. G.R. dated 06/08/2002 *inter alia* lays down –

“(२) आदिवासी क्षेत्रात किमान २ वर्षे चांगले काम केलेल्या गट 'अ' व 'ब' च्या अधिकाऱ्यांना देखिल त्यांच्या पसंतीच्या जिल्हयात सोईनुसार नेमणूका देण्यात याव्यात.

(६) अधिकारी/कर्मचारी यांचेकडून बदलीसाठी पसंतीक्रम - प्राप्त होताच सक्षम प्राधिकाऱ्यांनी संबंधितांचा विहित कार्यकाल संपताच त्यांच्या पसंतीच्या जिल्हयात बदलीसाठी आवश्यक ती कार्यवाही करावी. काही प्रशासकीय कारणास्तव पसंतीच्या जिल्हयात लगेचच बदली करणे शक्य नसल्यास सक्षम प्राधिकाऱ्यांने अशी प्रकरणे तातडीने वरिष्ठांचे/शासनाचे निदर्शनास आणून देवून त्यांचे आदेश प्राप्त करावेत व संबंधितास तसे कळवून त्यांना अन्यत्र बदली द्यावी. मात्र, असे करताना संबंधितांनी बदलीसाठी दिलेला पसंतीचा हक्क पुढील तीन वर्षापर्यन्त कायम ठेवून या वाढीव कालावधीत पसंतीच्या जिल्हयात बदली देणे आवश्यक राहिल.”

Shri S.D. Ganvir had given choices on 24/04/2023. There is nothing on record to show that the contingency envisaged by the latter guideline had arisen in this case.

11. File containing papers of transfers in question was called for perusal. It shows that Civil Services Board had recommended that Shri S.D. Ganvir, Smt. Kulsunge and Shri B.G. Tambe be transferred at Bhandara, Gondia and Aurangabad, respectively. When these recommendations were placed before the Transferring Authority, Shri Ganvir was directed to be transferred to Ratnagiri - Sindhudurg. It appears that in 17 other cases transfers were directed to be made which were not as per recommendations of Civil Services Board. While not accepting recommendations of Civil Services Board no reasons were recorded by the Transferring Authority. This ground as well as non-compliance of aforequoted guidelines in G.R. dated 06/08/2002 have rendered order of transfer of Shri S.D. Ganvir unsustainable.

12. I have referred to the circumstances under which effect could not be given to transfer orders of Smt. Kulsunge and Shri B.G. Tambe. On behalf of Smt. Kulsunge and Shri B.G. Tambe it was submitted that they are prepared to work at their previous place of posting or at the transferred place. By virtue of stay order passed by this Tribunal Shri S.D. Ganvir continues to work at Gondia. I have held

that order of transfer of Shri S.D. Ganvir cannot be sustained. I have also referred to stand of Smt. Kulsunge as well as Shri B.G. Tambe and prayers made by Shri B.G. Tambe in O.A.No.1249/2023. Taking into account all these circumstances following order shall meet ends of justice -

(i) Transfer order of Shri S.D. Ganvir is quashed and set aside. As a consequence, transfer orders of Smt. Kulsunge and Shri B.G. Tambe, too, cannot be given effect to. The respondents are therefore directed to permit them to work at Gondia, Bhandara and Nagpur, respectively till the ensuing annual general transfers. The respondents shall consider their cases for transfer appropriately at the time of ensuing annual general transfers. These three employees shall give their choices for posting at the time of ensuing annual general transfers. The respondents shall consider the same on their own merits. The respondents are directed to release unpaid salary of Smt. Kulsunge and Shri B.G. Tambe.

(ii) The O.As. are allowed in these terms and C.A. is disposed of with no order as to costs.

(M.A.Lovekar)
Member (J).

Dated :-15/02/2024.

dnk.

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

Name of P.A. : D.N. Kadam

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

Judgment signed on : 15/02/2024.