

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.05/2023

DISTRICT:- AURANGABAD

Smt. Mathurabai Prakash Kathar,
Age : 50 years, Occ : Service as
Peon in the office of Deputy Director of
Sports and Youth Services,
Aurangabad Division, Aurangabad,
R/o. Bhawani Nagar, Old Mondha,
Aurangabad, Dist. Aurangabad.

...APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through Secretary,
School Education and Sports Department,
Madam Cama Marg, Hutatma Rajguru
Chowk, Mantralaya, Extension Counter,
Mumbai-400 032.
- 2) The Joint Director of Sport and Youth Services,
Shiv Chhatrapati Krida Sankul,
Mahalunge-Balewadi, Pune-400 001.
- 3) The Deputy Director of Sport and Youth Services,
Regional Sports Complex,
Garkheda Parisar, Aurangabad,
Dist. Aurangabad.

...RESPONDENTS

APPEARANCE :Shri V.B.Wagh, Counsel for
Applicant.

:Smt. Deepali Deshpande, Presenting
Officer for the respondents.

**CORAM : HON'BLE SHRI JUSTICE P.R.BORA,
VICE CHAIRMAN**

Decided on : 14-02-2023

ORAL ORDER :

1. Heard Shri V.B.Wagh, learned Counsel for the applicant and Smt. Deepali Deshpande, learned Presenting Officer for the respondent authorities

2. It is the grievance of the applicant that she has been transferred from Aurangabad to Parbhani contrary to the provisions under the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 ("the Transfer Act" for short). Learned Counsel for the applicant submitted that even while abolishing the post and for that purpose transferring the employee at some other place, the respondents were bound to take into account the seniority of the employees concerned. It is further argued that counseling also did not take place and the options were also not called for. Learned Counsel further submitted that the applicant is widow having entire responsibilities of her family and her transfer at Parbhani would cause her great hardships. Learned Counsel submitted that on all above grounds, the order of transfer deserves to be quashed and set aside.

3. Opposing the submissions made on behalf of the applicant, learned P.O. reiterating the contentions raised in the affidavit in reply filed by respondent nos.2 and 3 submitted that post was abolished under the orders of the Government and since the applicant was junior-most in the cadre of Group-D employees, she was required to be transferred at Parbhani. Learned P.O. submitted that there are no *mala fides* or illegality in transferring the applicant from Aurangabad to Parbhani. Learned P.O. submitted that no error has been committed by the respondents while issuing the impugned order. Learned P.O., therefore, prayed for dismissal of the O.A.

4. I have carefully considered the submissions advanced on behalf of the applicant as well as the respondents. There is nothing on record showing that the applicant was not the junior-most person in the Group-D category in the concerned office and there were certain other employees who were junior to her and if the post was abolished, it could not have been the post on which the applicant was working and the junior-most person was liable to be shunted. In absence of any such evidence, it is difficult to accept the contentions of the applicant.

5. From the facts and circumstances of the case, there appears no malice in issuance of the impugned order whereby the applicant has been transferred or posted at Parbhani. As such, in so far as the merit of the matter is concerned, there appears no case for the applicant. However, it was also submitted by the learned Counsel during the course of his arguments that having regard to the difficulties faced by the applicant some alternate arrangement can be made by the respondents like giving her deputation at Aurangabad or to accommodate her at any other equivalent post in the same department in any other branch at Aurangabad. Learned Counsel has also pointed out that the representation so submitted by the applicant in that behalf is not considered by the respondents. The copy of such representation made on 16-01-2023 is tendered by the learned Counsel for the applicant during the course of arguments and the same is taken on record.

6. In view of above discussion, it appears to me that present O.A. can be disposed of by directing the respondents to consider the representation submitted by the applicant on merit by giving due consideration to the

reasons as are mentioned in the said representation within 4 weeks from the date of this order. O.A. stands disposed of accordingly without any order as to costs.

VICE CHAIRMAN

Place : Aurangabad
Date : 14.02.2023.