

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.123 OF 2020

DISTRICT : THANE

Smt. Savita C. Bodhekar.)
Age : 37 Yrs., Occu. : Govt. Service,)
Working as Superintending Engineer,)
Vigilance Unit, Mumbai Zonal Office,)
Sinchan Bhavan, Kopari, Thane and)
Residing at Flat No.5, Surya Building,)
Near Sinchan Bhavan, Kopari,)
Thane (E) – 400 603.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through Principal Secretary,)
Water Resources Department,)
Mantralaya, Mumbai – 400 032.)
2. Shri Nandkishor M. Wagh.)
Assistant Chief Engineer, Hydro)
Electric Projects & Quality Control,)
Sinchan Bhavan, Mangalwar Peth,)
Pune.)...**Respondents**

Mr. U.V. Bhosle, Advocate for Applicant.

Mrs. K.S. Gaikwad, Presenting Officer for Respondents.

Respondent No.2 served but absent.

CORAM : SHRI A.P. KURHEKAR, MEMBER-J

DATE : 09.07.2020

JUDGMENT

1. The Applicant has challenged the transfer order dated 05.02.2020 invoking jurisdiction of this Tribunal under Section 19 of Administrative Tribunals Act, 1985.
2. Shortly stated facts giving rise to this application are as under :-

The Applicant was serving in the cadre of Executive Engineer in Water Resources Department. By order dated 07.05.2018, she was promoted in the cadre of Superintending Engineer and posted as Superintending Engineer, Vigilance Squad, Thane. However, abruptly, by impugned order dated 05.02.2020, she was transferred mid-term and mid-tenure to the post of Superintending Engineer and Ex-Officio Deputy Secretary, Water Resources Department, Mantralaya, Mumbai exercising powers under Section 4(5) of 'Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005' (hereinafter referred to as 'Transfer Act 2005' for brevity). The Applicant has challenged the transfer order contending that she had hardly completed one year and eight months at Thane but transferred to Mantralaya, Mumbai only to accommodate the Respondent No.2 who is transferred and posted in her place at Vigilance Squad, Thane. She contends that no exceptional case or administrative exigency is made out as contemplated under Section 4(5) of 'Transfer Act 2005', and therefore, the transfer order is malicious and unsustainable in law.

3. The Respondents resisted the application by filing Affidavit-in-reply of Respondent No.1 *inter-alia* denying that the transfer order suffers from any malice or unsustainable in law. It is not in dispute that the Applicant had not completed three years tenure as Superintending Engineer, Vigilance Squad, Thane and she was transferred mid-term and mid-tenure by impugned order dated 05.02.2020. Respondents sought to justify the transfer order contending that 3 key posts of

Superintending Engineer-cum-Deputy Secretary to Government in Mantralaya were lying vacant which was causing hindrance to the administration, and therefore, for administrative exigency considering suitability and competency of the Applicant, she was transferred to the post of Superintending Engineer-cum-Deputy Secretary, Mantralaya, Mumbai invoking Section 4(5) of 'Transfer Act 2005'. The transfer has been approved by Civil Services Board (CSB) as well as by Hon'ble Chief Minister being competent authority under Section 4(5) of 'Transfer Act 2005', and therefore, the allegation of malice or favour to Respondent No.2 are baseless. Respondent No.2 was due for promotion to the post of Superintending Engineer at the time of transfer of the Applicant, and therefore, he was given posting in place of Applicant at Vigilance, Thane. Furthermore, he was due to retire in July, 2020, and therefore, he was not considered for posting on the post of Superintending Engineer and Deputy Secretary, Mantralaya, Mumbai in view of his short tenure till July, 2020 only. Respondents thus contend that the challenge to the impugned order holds no water and prayed to dismiss the O.A.

4. Heard Shri U.V. Bhosle, learned Advocate for the Applicant and Smt. K.S. Gaikwad at a length. Respondent No.2 is served, but did not appear.

5. Shri Bhosle, learned Advocate for the Applicant sought to assail the impugned order on the following grounds :-

(i) Applicant is transferred mid-tenure and mid-term in colourable exercise of powers under Section 4(5) of 'Transfer Act 2005'.

(ii) Applicant was transferred mid-term and mid-tenure only to accommodate Respondent No.2 Shri Nandkishor M. Wagh.

(iii) One Shri Rajesh More was posted in Mantralaya on the post of Superintending Engineer and Deputy Secretary, Water Resources Department by order dated 04.02.2020 but within a month, he was transferred to Nashik by order dated 05.02.2020.

Shri Rajesh More could have been continued in Mantralaya instead disturbing the Applicant, and therefore, the contention raised by Respondents that transfer of the Applicant was necessary on administrative exigency is farce.

6. Per contra, Smt. K.S. Gaikwad, learned Presenting Officer had taken me through the reply filed on behalf of Respondent No.1 and pointed out that the transfer of the Applicant in Mantralaya was necessitated from the point of administrative exigency to fill-in the vacant post and considering her experience and suitability, her services were required in Mantralaya. Accordingly, the CSB had also recommended her transfer considering administrative exigencies and the same has been approved by Hon'ble Chief Minister being competent authority contemplated under Section 4(5) of 'Transfer Act 2005'. As regard transfer of Shri Rajesh More, she contends that he was transferred from Mantralaya to Nashik to fill-in vacant post of Shri Abhay Pathak, and therefore, transfer of Shri Rajesh More has no connection with the transfer of the Applicant. Insofar as the transfer of Respondent No.2 in place of Applicant is concerned, she contends that he was due to retire in July, 2020, and therefore, from the point of administration, it was not practicable to post him in Mantralaya. On promotion, he was given posting in place of Applicant at Thane to fill-in the said vacancy.

7. Needless to mention that the transfer of Government servant is an incident of service and Courts should not interfere with such transfer orders unless it is in contravention of express provisions of law or malicious. A Government servant holding transferable post has no vested right to continue at a particular place as of right. Suffice to say, indisputably, an order or transfer is an administrative order which should not be interfered with except where it is in defiance of express provisions of law or malicious. The transfers are now governed and regulated by 'Transfer Act 2005' which *inter-alia* provides that no Government servant shall be ordinarily transferred unless he has

completed his normal tenure. It further provides that the transfer of a Government servant shall ordinarily be made only once in a year in the month of April or May. However, as per Section 4(5) of 'Transfer Act 2005', the competent authority may in special case after recording the reasons in writing and with prior permission of immediately preceding competent transferring authority can transfer a Government servant even before completion of his tenure of post. As such, for reasons to be recorded in writing, there can be mid-tenure and mid-term transfer of a Government servant.

8. It is well settled that the reasons need not be elaborate as in decision of Court of law. Whether reasons which weighed with the authority for arriving at a subject to satisfaction would qualify it as exceptional circumstance or special case would depend upon the facts of each case and there is no strait-jacket formula. There could be diverse consideration on the basis of which discretion must be exercised by the competent authority while transferring the Government servant and Court cannot substitute its opinion for that of competent authority.

9. In view of above, the question posed for consideration is whether he is transferred maliciously in colourable exercise of powers.

10. To appreciate the submission advanced at the Bar, it would be apposite to see the proposal moved by the Department for transfer of the Applicant, which is at Page No.32 of Paper Book. In proposal, Under Secretary stated as follows :-

“श्रीमती बोधेकर हया बदलीस पात्र नाहीत.

तथापि, मंत्रालयात सध्या अधीक्षक अभियंता संवर्गात ३ पदे रिक्त असून अतिरिक्त कार्यभाराद्वारे कामकाज चालविण्यात येत आहे. मंत्रालयामध्ये महत्वाचे धोरणात्मक स्वरूपाचे कामकाज पार पाडले जाते. तथापि, रिक्त पदांमुळे विभागांच्या कामकाजामध्ये प्रशासकीय अडचणी निर्माण होत आहेत. यास्तव सदर रिक्त पदे तातडीने भरणे आवश्यक आहे.

यास्तव, प्रशासकीय कामकाज करताना अडचण होऊ नये याकरीता श्रीमती सविता बोधेकर, अधीक्षक अभियंता, दक्षता पथक, ठाणे या अनुभवी अधिका-याची प्रशासकीय कारणास्तव, अधीक्षक अभियंता तथा पदसिध्द उपसचिव, जलसंपदा विभाग, मंत्रालय, मुंबई या रिक्त पदावर बदली अधिनियम कलम ४(५) नुसार बदली प्रस्थावित करण्यात येत आहे.

श्री. वाघ यांचा अधीक्षक अभियंता पदावरील पदोन्नतीचा प्रस्ताव स्वतंत्ररित्या शासनाच्या मान्यतेस्तव सादर करण्यात आला असून त्यामध्ये श्री. वाघ यांच्या सविस्तर पदस्थापनेबाबत स्वतंत्ररित्या कार्यवाही करण्यात येईल असे नमूद करण्यात आले आहे.

त्यामुळे श्री. वाघ यांची श्रीम. बोधेकर यांच्या बदलीने रिक्त होणा-या अधीक्षक अभियंता, दक्षता पथक, ठाणे या पदावर पदोन्नतीने पदस्थापना प्रस्तावित.’’

11. Then, Section Officer in Water Resources Department prepared proposal for transfer of the Applicant for placing the same before CSB and Hon'ble Chief Minister. As regard, the necessity of transfer and requirement of Applicant in Mantralaya, he stated as follows :-

“३. सद्यस्थितीमध्ये जलसंपदा विभाग, मंत्रालय, मुंबई येथे अधीक्षक अभियंता संवर्गाची एकूण ८ मंजूर पदे असून त्यापैकी ३ पदे रिक्त आहेत. तसेच, फेब्रुवारी, २०२० अखेर सेवानिवृत्तीमुळे आणखी एक पद रिक्त होत आहे. सदर रिक्त पदांचे कार्यभार इतर अधिका-यांकडे सोपविण्यात आले आहेत. मंत्रालयामध्ये महत्वाचे धोरणात्मक स्वरूपाचे कामकाज पार पाडले जाते. तथापि, रिक्त पदांमुळे विभागांच्या कामकाजामध्ये प्रशासकीय अडचणी निर्माण होत आहेत. यास्तव सदर रिक्त पदे तातडीने भरणे आवश्यक आहे. श्रीमती बोधेकर ह्या कार्यक्षम अधिकारी असून, त्यांच्या अनुभवाचा लाभ मंत्रालयस्तरावर कामकाज पार पाडताना होऊ शकेल.’’

८. अधीक्षक अभियंता (स्थापत्य) हे पद गट - अ (राजपत्रित) संवर्गातील असल्याने या संवर्गातील श्रीमती बोधेकर व श्री. वाघ यांच्या बदलीबाबतचा प्रस्ताव दि. २२.०८.२०१९ रोजीच्या शासन निर्णयान्वये गठीत केलेल्या नागरी सेवा मंडळ (१) - अ च्या शिफारशीसाठी पृ. ५ / टि.वि. अन्वये चकाकार पध्दतीने सादर करण्यात येत आहे.

९. नागरी सेवा मंडळ (१) - अ च्या शिफारसीसह अधीक्षक अभियंता (स्थापत्य) संवर्गातील श्रीमती सविता बोधेकर, अधीक्षक अभियंता, दक्षता पथक, ठाणे यांची प्रशासकीय कारणास्तव बदली कलम ४(५) नुसार, जलसंपदा विभाग, मंत्रालय, मुंबई येथील रिक्त असणा-या अधीक्षक अभियंता तथा उप सचिव संवर्गातील पदावर बदली करण्याबाबतचा प्रस्ताव तसेच, श्री. नंदकिशोर वाघ, अधीक्षक अभियंता यांची श्रीमती बोधेकर यांच्या बदलीने रिक्त होणा-या अधीक्षक अभियंता, दक्षता पथक, ठाणे या पदावर पदोन्नतीने नियुक्ती करण्याचा प्रस्ताव सक्षम प्राधिकरणाच्या मान्यतेसाठी सादर करण्यात येत आहे.’’

12. Accordingly, file was placed before CSB headed by Principal Secretary, Water Resources Department and in turn, CSB approved the proposal by circulation. True, there was no meeting of CSB in congregation but the fact remains that the approval was taken by circulation and all the members of CSB unanimously recommended the transfer of the Applicant in view of administrative exigency mentioned in proposal. The CSB was conscious that the Applicant had completed the term of one year and eight months only, but recommended transfer on administrative exigency. Thereafter, file went to Hon'ble Chief Minister, i.e. competent authority under Section 4(5) of 'Transfer Act 2005' who accorded sanction for mid-term and mid-tenure transfer of the Applicant.

13. Thus the perusal of proposal approved by CSB as well as by Hon'ble Chief Minister reveals that the Government was conscious that

Applicant had not completed normal tenure of three years at Thane. In Water Resources Department, Mantralaya, out of 8 posts of Superintending Engineer, 3 posts were vacant and at the end of February, 2020 due to retirement of one of the Superintending Engineer there would be four vacancies. It is further stated in proposal that because of vacant post, the additional charge has been kept with others. Furthermore, there is specific mention in the proposal that because of vacant post, the Department is facing hardship in taking policy decision. The Department further noted that the Applicant is experienced Officer and her expertise can be utilized by the State Government for smooth administration. As such, this is not a case where no reasons are recorded while transferring the Applicant from Thane to Mantralaya. The administrative exigency and requirement of the Applicant in Mantralaya is clearly spelt out from the proposal. Needless to mention, how the administration has to run its affairs is a matter which squarely falls within the Executive domain. The transfer could be due to exigencies of service or due to administrative reasons. The proposal moved by the Department for the transfer of the Applicant clearly spells out that the Department was facing difficulties in the administration due to several vacant posts of Superintending Engineer and Deputy Secretary and Applicant having experience of functioning of Mantralaya found suitable to assist the administration, and therefore, CSB as well as Hon'ble Chief Minister approved her transfer. This being the position, it cannot be said that the transfer is made in colourable exercise of powers. The necessity and urgency of the transfer of the Applicant in Mantralaya are clearly spelt out. The Applicant has failed to demonstrate that the transfer has been actuated by collateral purpose or it is in arbitrary exercise of powers.

14. Shri U.V. Bhosle, learned Advocate for the Applicant sought to place reliance on the decision of Hon'ble High Court, Bench at Aurangabad in ***Writ Petition No.5835/2011 (Purushottam G. Bhagwat Vs. State of Maharashtra)***. In that case, the Petitioner was

transferred mid-term and mid-tenure without recording any reasons. Besides, there was nothing on record to justify the transfer. It was made under the caption of “administrative ground” without assigning any reason. Therefore, the transfer order was quashed. In Para No.15 of the Judgment, the Hon’ble High Court held as under :-

“15. It is to be noted that the respondent nos.1 & 2 have not placed anything on record to show that the transfer of the petitioner was made by invoking the provisions of Sub-section (5) of the Act. From the perusal of paragraph 7 of the impugned judgment and order of the learned Tribunal itself, it would reveal that the name of the petitioner is in the list of transfers, which were proposed to be made on administrative ground at Sr.No.15 and categorized as

“तसेच प्रशासकीय कारणास्तव विहित मुदतीच्या आत कराव्या लागणा-या बदल्या”

It is, thus, clear that there are no reasons recorded as to why as a special case, the transfer of the petitioner was necessitated.”

15. A reference was also made to a decision given by this Tribunal in **O.A.901/2016 (Tatyrao N. Munde Vs. State of Maharashtra) decided on 10.10.2016**. In that case, the Applicant was transferred only on the ground that he had good experience of work. Except experience, nothing further was mentioned while transferring the Applicant. Therefore, in fact situation, the transfer order was quashed by the Tribunal. The learned Advocate for the Applicant further referred to the decision of this Tribunal in **O.A.614/2017 (Prمود H. Sawakhande Vs. State of Maharashtra) decided on 27.03.2018**. It was a case of transfer due to an unsubstantiated complaint of misconduct without recording any of the reasons for justifying the transfer and without placing the matter before CSB. Therefore, in fact situation, the transfer order was set aside. He further sought to place reliance on **2013(6) BOM CR 391 (Kishor Mhaske Vs. Maharashtra OBC Finance & Development Corporations and Ors.)**. It was a case of mid-term and mid-tenure transfer without recording specific reasons. It is in that context, the Hon’ble High Court held that mere recording expression such as ‘on administrative ground’ cannot be said compliance of mandatory statutory requirement of Section 4(5) of ‘Transfer Act 2005’.

Therefore, transfer being not in compliance of law was quashed. As such, in fact situation, the transfer orders were quashed.

16. Shri Bhosle, learned Advocate for the Applicant further placed reliance on the decision of Hon'ble Supreme Court in **Civil Appeal No.10239 of 2017 (Vishwanath Babunath Nath Vs. State of Maharashtra) decided on 1st August, 2017**. In that case, the Applicant was transferred mid-term and mid-tenure from Aurangabad to Mumbai considering his work experience in Mantralaya. In Affidavit, all that, Government stated "considering the work experience in Mantralaya posting of Vishwanath B. Nath, Superintending Engineer, Water Conservation, Aurangabad is just and proper". It is in that context, the Hon'ble Supreme Court held that this is hardly a reason for transfer of employee in view of provisions of 'Transfer Act 2005' and further held that "it appears to be only observation and nothing more. As such, in that case, except observation in the Affidavit, there was nothing more to make out a special case and to invoke powers under Section 4(5) of 'Transfer Act 2005'. Therefore, in fact situation, the transfer order was quashed by Hon'ble Supreme Court.

17. All these decisions relied by the learned Advocate for the Applicant are arising from fact situation and those *per se* cannot be made applicable to the present case. Needless to mention that Court should not place reliance on decision without discussing as to how the fact situation of the case before him fits in it the fact situation of the decision on which reliance is placed. The observations made by the higher Courts must be read in the context in which they appear to have been stated. The ratio of any Judgment must be understood in the background of the facts of that case. It is well settled that little difference in facts or single additional fact may make a lot of difference in the precedential value of decision and one should avoid the temptation to decide the cases by matching the colour of one case against the colour of another.

18. Suffice to say, each case depends on its own fact and close similarity between one case and another is not enough. In the decisions relied by the learned Advocate for the Applicant in fact situation, the transfer orders were quashed having found not in consonance with law. Whereas, in the present case, the material placed on record clearly spells the necessity and requirement of transfer of the Applicant in Mantralaya and reasons in support of it, are also spelt out in the proposal as adverted to above. Therefore, with due respect, the authorities relied by the learned Advocate for the Applicant are quite distinguishable and are of no assistance to him.

19. On the point of alleged malice, the learned Advocate for the Applicant referred to **2003 AIR (SC) 1941 (State of Andhra Pradesh Vs. Goverdhanlal Pitti)** and **2010 AIR (SC) 3745 (Kalabharati Advertising Vs. Hemant V. Narichanda & Ors.)**. In **Goverdhanlal Pitti's** case, the acquisition of School Building under Land Acquisition Act, 1894 in which State Government was tenant was in issue. After passing the degree of eviction by Rent Controller, the State Government issued Notification for acquisition of tenanted building. It is in that context, the landlord raised issue of malice. The Hon'ble Supreme Court observed that legal malice or malice in law means something done without lawful excuse. In other words, it is an act done wrongfully and willfully without reasonable or probable cost and it is deliberate act in disregard of rights of others. Indeed, the Hon'ble Supreme Court rejected the contention of the landlord that the action of the Government suffers from malice and legality of Notification for acquisition of premises was upheld. Whereas, in **Kalabharati Advertising's** case, the order passed by Bombay Municipal Corporation was challenged on the ground of malice. The Hon'ble High Court held that the order passed by Corporation is vitiated for not recording reasons and violating the principles of natural justice and it establishes the allegation of legal malice. Whereas, in the present case, the Applicant has failed to demonstrate how the impugned order is amount to malice in law. There

is nothing to substantiate that the Applicant's transfer order suffers from any malice or colourable exercise of powers. Indeed, the reasons recorded in the proposal clearly spelt out administrative exigency and the same has been approved by CSB in view of decision of Hon'ble Supreme Court in **(2013) 15 SCC 732 (T.S.R. Subramanian and Ors. Vs. Union of India & Ors.)** and later it was approved by highest competent authority viz. Hon'ble Chief Minister as contemplated under Section 4(5) of 'Transfer Act 2005'.

20. True, the Respondent No.2 was posted in place of Applicant at Thane. However, that *ipso-facto* cannot be construed that only to accommodate Respondent No.2, the Applicant is shifted from Thane to Mantralaya, Mumbai. In this respect, material to note that Respondent No.2 was waiting for posting on promotion on the post of Superintending Engineer and due to retire in July, 2020. As such, in view of short tenure of Respondent No.2, the Department might have thought not to post him in Mantralaya, and therefore, posted him in place of Applicant at Thane while transferred the Applicant to Mantralaya, Mumbai on administrative ground. Therefore, it cannot be said that there was any such intention to accommodate Respondent No.2 at Thane behind the transfer of applicant. The posting of Respondent No.2 at Thane was consequent to transfer of Applicant. Suffice to say, the submission advanced by the learned Advocate for the Applicant that only to accommodate Respondent No.2, the Applicant is transferred holds no water.

21. As regard transfer of Shri Rajesh More, there is no denying that he was working as Superintending Engineer and Deputy Secretary, Water Resources Department, Mantralaya. Earlier, he was serving at Nashik and by order dated 4th January, 2020, he was transferred to Mantralaya, Mumbai. Later, within a month, by order dated 05.02.2020, he was transferred invoking Section 4(5) of 'Transfer Act 2005' and posted at Nashik in view of transfer of incumbent Shri Abhay Pathak. Thus, Shri

Rajesh More was transferred to fill-in the vacancy due to transfer of Abhay Pathak as Superintending Engineer, Nashik. The submission was advanced by the learned Advocate for the Applicant that Shri Rajesh More was already available in Mantralaya and he would have continued in Mantralaya and had he continued in Mantralaya, there would have been no necessity to transfer the Applicant from Thane to Mantralaya, Mumbai. In my considered opinion, the transfer of Shri Rajesh More cannot be linked to the transfer of Applicant. As stated earlier, it is for the administration as to how to run the administration and to post suitable person on a particular post. As such submission advanced by learned Counsel for the Applicant on this score is devoid of merit.

22. Last but not least, material to note that while Applicant was due for posting in the promotional cadre of Superintending Engineer, she had given letter dated 15.02.2018 (Page No.62 of P.B.) requesting Government to accommodate her in Konkan-2, as she is staying with her family at Thane. What is important to note that, in the same letter, she further stated that she is willing to work in Mantralaya, Mumbai and requested to post her on promotion in Mantralaya. However, that time, she was posted at Thane. The applicant has failed to demonstrate that now there is change in the circumstances which existed while requesting for transfer to Mumbai and now she would suffer hardship. Thus, fact remains that the Applicant had earlier given willingness to work in Mantralaya. This being the position, it cannot be said that the transfer of the Applicant from Thane to Mantralaya, Mumbai has caused any such hardship to the Applicant which would outweigh the administrative exigency of the Government.

23. At this juncture, it would be apposite to refer decisions of Hon'ble High Court and Apex Court holding the field. In **2008 (2) Mh.L.J. 640 (Shri V.V. Gadekar, Deputy Engineer Vs. MHADA)**, it has been held as follows :-

“Ordinarily, orders of transfer are made in the exercise of administrative authority to meet the exigencies of service and in public interest. How the Administration has to run its affairs is not a matter which squarely falls in the judicial domain. Unless the orders of transfer were in conflict with Rules and were made for ulterior motives or in patent arbitrary exercise of powers, the Court would decline to interfere in such matter. The transfer could be due to exigencies of service or due to administrative reasons. The Petitioners in the present case have failed to demonstrate as to how the order of transfer has been passed for collateral purposes or is a patent arbitrary exercise of power.”

In **2001 AIR SC 3309 (National Hydroelectric Power Corporation Ltd. Vs. Shri Bhagwan & Anr.)** , it has been held as follows :-

“On a careful consideration of the submissions of the learned counsel on either side and the relevant rules of which our attention has been invited to, we are of the view that the High Court was not justified in interfering with the impugned orders of transfer. It is by now well-settled and often reiterated by the Court that no Government servant or employee of public undertaking has any legal right to be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the courts of the tribunals cannot interfere with such orders as a matter of routine as though they are the appellate authorities substituting their own decision for that of the management, as against such order passed in the interest of administrative exigencies of the service concerned.”

The legal principal expounded in the foresaid decisions are squarely applicable to the present case.

24. The totality of aforesaid discussion of law and facts leads me to conclude that the Applicant has failed to demonstrate that there is any malice in law on the part of Respondents or the transfer is in colourable exercise of powers. Indeed, due to compelling administrative reasons, the Government felt it imperative to transfer the Applicant from Thane to Mantralaya, Mumbai and after recording specific reasons, with the

approval of CSB as well as competent authority, she is transferred invoking powers under Section 4(5) of 'Transfer Act 2005'. Suffice to say, the challenge to the transfer order holds no water and O.A. deserves to be dismissed. Hence, the following order.

ORDER

The Original Application is dismissed with no order as to costs.

Sd/-
(A.P. KURHEKAR)
Member-J

Mumbai
Date : 09.07.2020
Dictation taken by :
S.K. Wamanse.

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