

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI

ORIGINAL APPLICATION NO.143 OF 2016

DISTRICT : NASHIK

Dr. Sanjay Sayaji Nashikkar. )  
Aged : 52 Yrs., Occu.: Service, )  
Live Stock Development Officer, )  
R/o. 201, Shri Datta-Siddhi Apartment, )  
2<sup>nd</sup> Floor, Dhongade Mala, Nashik Road, )  
Nashik 422 101. ) **...Applicant**

**Versus**

1. The State of Maharashtra. )  
Through the Secretary, )  
Animal Husbandry Department, )  
Mantralaya, Mumbai - 400 032. )
2. District Animal Husbandry Officer, )  
Zilla Parishad, Nashik. )
3. Shri Nimba Naval Chitte. )  
R/at. Plot No.4, Godavari Colony, )  
Tal. Vaijapur, Dist : Aurangabad. ) **...Respondents**

**Shri J.N. Kamble, Advocate for Applicant.**

**Shri K.B. Bhise, Presenting Officer for Respondents 1 & 2.**

**Shri Prashant D. Patil, Advocate for Respondent No.3.**

**P.C. : R.B. MALIK (MEMBER-JUDICIAL)**



**DATE : 19.09.2016**

**JUDGMENT**

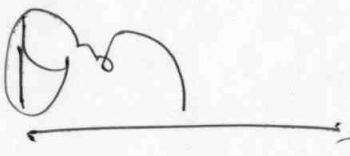
1. The challenge in this Original Application (OA) under Section 19 of the Administrative Tribunals Act is to an order of transfer of a Live Stock Development Officer within just a few months of he having taken charge at Yeola in Nashik District. He has been transferred to Nandgaon in the same District.

2. I have perused the record and proceedings including a file that was produced for my perusal and which figured in the order dated 27.7.2016 and heard Shri J.N. Kamble, the learned Advocate for the Applicant, Shri K.B. Bhise, the learned Presenting Officer for the Respondents 1 & 2 and Shri Prashant D. Patil, the learned Advocate for the Respondent No.3.

3. On 1.5.2012, the Applicant came to be transferred at Sinnar. He came to be transferred on 30<sup>th</sup> June, 2015 to Mudalgaon in Nandurbar District. He apparently did not join there and on his request, he was transferred on 11.8.2015 to Yeola and then on 3.2.2016, he came to be transferred to Nandgaon which was just about six months after he took over at Yeola. The private party Respondent No.3 has been transferred at his place at



Yeola. The sum and substance of the case of the Respondents 1, 2 & 3 through their separate Affidavits-in-reply is that there were complaints against the Applicant. However, perusal of those so called complaints would show that they were of a period before he had been transferred to Yeola. One aspect of the matter is that granting all latitude to the Respondents, the Applicant had already been transferred just in case legally, he could have been transferred on the basis of the unverified complaints. That, however, is just an assumption and not a finding. It is pertinent to note that there was a complaint by a lady which was enquired into and a copy of the report is at Exh. 'R-4' (Page 23 of the Paper Book (P.B)) and it would appear that the enquiry did not reveal much against the Applicant and since a lady was involved in that particular matter, I do not think I should examine that aspect in detail. In fact, it is not even necessary to examine those complaints and one of them was by the Staff against the Applicant apparently regarding his manner of functioning. It so happens that the present matter is entirely governed by "the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005" ('Transfer Act' hereinafter). Again granting all latitude to the Respondents, the said complaints by themselves could not have been made the



basis per-se and ipso-facto of his transfer. It would be too academic to venture into were I to discuss in detail the complaint aspect of the matter in the context of the various provisions of the Transfer Act. It would be suffice to mention that the special case or exceptional circumstance are the two important aspects of the matter which are required to be established, if a transfer is to be considered as a good transfer. However, the perusal of the file to which a reference has been made at the outset, in the context of my order of 27.7.2016 would show that in fact, those complaints were not there in the file at all, and therefore, there was no question of they having been considered at the time of effecting the impugned transfer. In any case, if the transfer aspect of the matter is now codified, then the Respondents have to defend their impugned action on the anvil of the express text of the law (Transfer Act) and this they have failed to do. Theoretically, if the same set of facts constitute a cause of action for some other action, then obviously, the Respondents are not debarred from taking recourse thereto. This, however, is not my direction. The only point that is being emphasized is that the transfer aspect of the service condition has its own peculiar hue and every and any complaint does not necessarily become a good case for transfer.



4. If that be so, then the arguments advanced, more particularly on behalf of the private party Respondent regarding convenience based on the fact of Yeola and Nandgaon being in close proximity, etc. will be of no consequence because after-all, here I have to enforce a written law and I have to examine the validity of the order herein impugned. If that order does not stand the scrutiny of law, then other considerations would pale into insignificance.

5. Even if the Applicant and the private party Respondent have taken their respective places, that by itself will be no ground to refuse to pass an order which has to be passed on facts by application of law.

6. The order herein impugned stands hereby quashed and set aside and it is directed that the Applicant be reposted at Yeola within four weeks from today. The Original Application is allowed in these terms with no order as to costs.

Sd/-

**(R.B. Malik)**  
**Member-J**  
**19.09.2016**

Mumbai  
Date : 19.09.2016  
Dictation taken by :  
S.K. Wamanse.