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IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

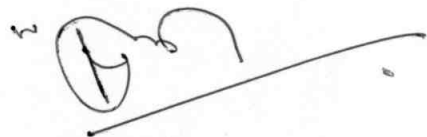
ORIGINAL APPLICATION NO.186 OF 2016

DISTRICT : N' MUMBAI

Mr. Nitin Laxman Sukalekar.)
Age : 52 yrs, (DOB 3.4.1963),)
Occ.: Social Welfare Officer, Class-II,)
R/at : Sector 2, B.No.C-2/4, 2nd Floor,)
Vashi, Navi Mumbai.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through the Principal Secretary,)
Social Justice & Special Assistance)
Mantralaya, Mumbai - 400 032.)
2. The Commissioner.)
Social Welfare, 3 Chorgh Road,)
New Band Garden, Near Photo)
Zinko Press, Pune - 1.)
3. The Regional Deputy Commissioner,)
Konkan Bhavan, Administrative)
Building, 6th Floor, Belapur,)
New Bombay.)
4. Smt. Sunita S. Mate.)
Working as House Master at)
Mahatma Jyotiba Phule Govt.)
Hostel for Girls, Jogeshwari (E),)
Mumbai 400 060.)...**Respondents**



Shri K.R. Jagdale, Advocate for Applicant.

Shri K.B. Bhise, Presenting Officer for Respondents.

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

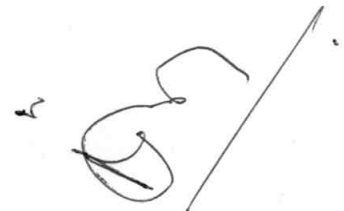
DATE : 04.10.2016

JUDGMENT

1. This Original Application (OA) is brought by Social Welfare Officer, Class-II disputing the impugned order whereby according to him, he came to be transferred from the Office at Chembur to Jogeshwari and the charge of Drawing and Disbursing Officer, Chembur came to be withdrawn from him and handed over to the 4th Respondent.

2. I have perused the record and proceedings and heard Mr. K.R. Jagdale, the learned Advocate for the Applicant and Shri K.B. Bhise, the learned Presenting Officer for the Respondents.

3. The impugned order is at Exh. 'Q' (Page 41 of the Paper Book (P.B)). It needs to be fully reproduced below in Marathi to have a proper grasp and focus on the real nature of the controversy.

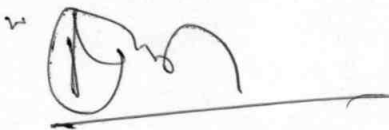


“संदर्भीय पत्रान्वये प्रादेशिक उपायुक्त समाज कल्याण विभाग मुंबई यांनी श्री. एन. एल. सुकळीकर समजा कल्याण अधिकारी वर्ग-२ बृहन्मुंबई चेंबुर यांचेवर मुंबई वित्तीय नियम १९५९ नियम क्र.५३, परिशिष्ट २० नुसार कारवाई होण्याची शक्यता असल्याने समाज कल्याण अधिकारी वर्ग-२ या पदाचा कार्यभार श्रीमती सुनिता सं. मते, गृहप्रमुख महात्मा ज्योतिबा फुले मुलांचे शासकीय वसतिगृह जोगेश्वरी (पू) मुंबई नं.६० यांच्याकडे सुपुर्द करून श्री. एन.एल. सुकळीकर यांना महात्मा ज्योतिबा फुले मुलांचे शासकीय वसतिगृह जोगेश्वरी (पू) मुंबई नं.६० या वसतिगृहाच्या गृहप्रमुख या पदावर पदस्थापना देण्यात यावी असे कळविलेले आहे.

त्यास अनुसरून आयुक्त, समजा कल्याण महाराष्ट्र राज्य पुणे हे या आदेशान्वये समजा कल्याण अधिकारी, वर्ग -२ बृहन्मुंबई चेंबुर या पदाचा अतिरिक्त कार्यभार श्रीमती सुनिता सं. मते, गृहप्रमुख महात्मा ज्योतिबा फुले मुलांचे शासकीय वसतिगृह जोगेश्वरी (पू) मुंबई यांचेकडे व श्री.एन.एल. सुकळीकर समजा कल्याण अधिकारी वर्ग-२ यांचेकडे गृहप्रमुख महात्मा ज्योतिबा फुले मुलांचे शासकीय वसतिगृह जोगेश्वरी (पू) मुंबई या पदाचा अतिरिक्त कार्यभार सोपविण्यात येत आहे.


तथापि, श्री.एन.एल. सुकळीकर समजा कल्याण अधिकारी वर्ग-२ यांचेकडे गृहप्रमुख महात्मा ज्योतिबा फुले मुलांचे शासकीय वसतिगृह जोगेश्वरी (पू) मुंबई या पदाचे आहरण व संवितरण अधिकारी म्हणून अधिकार ठेवण्यात येत नसून श्रीमती सुनिता सं.मते यांचेकडे गृहप्रमुख महात्मा ज्योतिबा फुले मुलांचे शासकीय वसतिगृह जोगेश्वरी (पू) या पदाचे आहरण व संवितरण पदाचे अधिकार ठेवण्यात येत आहेत.”

4. It is, therefore, very clear that although the Applicant is aggrieved by what he perceives to be the breach of provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (Transfer Act) but the impugned order on its plain reading, more particularly



the second unnumbered Paragraph would make it very clear that it is only as repeatedly pointed out in the Affidavit-in-reply, an instance of giving additional charge and / or change of charge as it were, which additional charge was given to the Respondent No.4 - the private party Respondent.

5. There is a significant background to this whole matter. There are documents on record, the details whereof need not be gone into because there is a possibility of some disciplinary proceedings being held. But for the purposes of the decision hereof, it would be suffice to mention that the Pay and Accounts Officer, Mumbai addressed a confidential communication to the Assistant Commissioner, Social Welfare, Chembur that on 17.10.2014, Applicant's messenger Manoj Jadhav submitted a fabricated Token No.59954 for Rs.1200/-. After verification through the Bar Code, it ultimately came about that it was a fabricated Token. Although the Applicant gives an impression in his OA that the said messenger with the assistance of a lady Clerk did do the said mischief because of some minor reasons for which he administered warning to the said messenger, the record shows that the matter was enquired into and therein the said messenger and the lady Clerk gave statements in



effect that the Applicant was the wrong doer and he had pressurized them. The record of the enquiry is annexed hereto. But as I indicated just now, it is not necessary to set out the details thereof for the reasons mentioned.

6. The point, therefore, remains that there is a possibility of a detailed departmental enquiry going underway and pending the same, the impugned order has been made of which the gist has already been set out hereinabove. The impugned order does not fit in the definition of the word, "transfer" on its plain and literal meaning in the Transfer Act. Incidentally, by an order of 13.7.2016 (Exh. 'R-J 1' Collectively, Page 78 of the P.B.), the Applicant has been given the responsibility of Drawing and Disbursing Officer of the Government Hostel, Jogeshwari. Therefore, it is not possible to lightly accept that there is some scheme or plot against the Applicant.

7. In the context of the above discussion, it is not possible for me to conclude that the impugned order results in effect what is known as transfer within the meaning of the said phrase under the Transfer Act. In so far as the withdrawal of powers of Drawing and Disbursing Officer is concerned, exercising the power of judicial review of administrative action in this particular OA, I do not



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consider it appropriate to interfere. There is no merit in the Original Application and it is accordingly dismissed with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
04.10.2016

Mumbai

Date : 04.10.2016

Dictation taken by :

S.K. Wamanse.

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