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**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO. 277/2016**

शु. Bharat Dallu Sable,  
Aged about 32 years,  
Forest Guard,  
At and post- Welgur Tola, Tah. Aheri,  
Distt. Gadchiroli. ----- **Applicant.**

**Versus**

शु. 1. Govt. of Maharashtra,  
Through its Principal Secretary,  
Revenue and Forest Deptt.  
Mantralaya, Mumbai.

2. The Dy. Conservator of Forest,  
Allapalli Division, Distt. Gadchiroli.

3. The Chief Conservator of Forest,  
Gadchiroli Circle, Gadchiroli. ----- **Respondents.**

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1. Shri Bharat Kulkarni, Advocate for the applicant.  
2. Shri D.M. Kakani, Id. Sp. Counsel for the Respondents.
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**CORAM** : B. Majumdar : Vice Chairman

**DATE** : 14<sup>th</sup> June, 2016

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**ORDER**

The applicant is a Forest Guard. He has been posted at Welgurtola Beat, Allapalli since 14/6/2013. Vide

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order dtd. 2/5/2016, he has been transferred to Gattepalli Beat, Pirmili. Aggrieved with this order he has filed the present O.A. His grievance is that being a Group-C employ, his normal tenure as per the proviso to Section 3 (1) of the Transfer Act is 6 years. Hence his transfer as per the impugned order is mid-term and attracts the provisions of Sub-sections (4) & (5) of Section 4 of the Transfer Act. As the order is silent as to whether the provisions of the above Section 4, i.e., a mid-term transfer can take place only after obtaining the prior approval of the next higher transferring competent authority putting on record the special reasons in that regard, the order is illegal.

2. Shri Bharat Kulkarni, Id. Counsel for the applicant reiterated the above submissions of the applicant. He relied on the orders of the Mumbai Bench of the Tribunal dtd. 18/1/2016 in O.A. No.413/2015 (Arun Jagannath Londhe), and dtd. 29/2/2016 in O.A. No.758/2015 (Rajendra Laxman Shinde) and order of this Bench dtd. 27/4/2016 in O.A. No. 79/2016 ( Devanand Rambhau Lakhe ). The Tribunal had

held in these O.As. that the normal tenure of a Group-C employee is 6 years.

3. Shri D.M. Kakani, Id. Sp. Counsel for the respondents, submitted that the present O.A. can be disposed of without waiting for a reply to be filed by the respondents since it is the settled issue that the normal tenure of a Group-C employee is 3 years and not 6 years. For this he relied on the order dtd. 15/7/2009 in O.A. No.381/2009 (**Umesh Wamanrao Rahate**) and 3 other O.As. The Tribunal had held that the proviso to Section 3 (1) of the Transfer Act does not confer any right on a Group-C employee to stay at a place of posting for 6 years. This order of the Tribunal was also upheld by hon'ble the High Court in **Umesh Wamanrao Rahate** (W.P. No.3740/2009, dtd.18/6/2010) and **Gunvant Keshav Borkute** (W.P. No.4379/2009, dtd. 27/10/2010).

4. I find that the applicant's only grievance against the impugned order is that it has been issued before he could complete his normal tenure of 6 years. The Nagpur Bench of

the Tribunal in its order dtd. 15/7/2009 in O.A. No.381/2009 ( Umesh Wamanrao Rahate ) and 3 other O.As. had held that the normal tenure of a Group-C employee in terms of Section 3 (1) is 3 years and not 6 years. The relevant part of the order in this regard is reproduced below :-

*“ If the contention of the learned counsel for the applicants that if the employee is entitled to stay at a place of post for two full tenures of 3 years each at a place of posting, if accepted then the competent authority will be required to prepare a list of Govt. servant who have completed 6 years period at a place of posting. However, it does not appear to be correct. If such interpretation is accepted, the main provision to sub-section (1) which refers to the Govt. employee of Group of Group “C” also stating therein that normal tenure in a post shall be of 3 years would become redundant . Therefore, it is clear that employee of Group-“C” also become due for transfer on completion of normal tenure of 3 years in a post held at a particular place. However, if all such persons who have completed 3 years through*

*become due , could not be transferred in view of the provisions of sub-section (ii) of Section 5 of the Act, in that case though name of such persons are included in that list of persons due for transfers, such employee may be retained beyond the period of 3 years and the maximum period for holding the post can be extended up to 6 years in view of the provisions of first proviso. However, the said proviso, does not confer any right on the employee to stay at the place of posting for a period of 6 years. Therefore, contention raised by learned Counsel for the applicant appears to be devoid of any substance and as such it is rejected."*

5. As I have already stated earlier, the above order of the Tribunal has been upheld by hon'ble the High Court. Thus, the issue that a Group-C employee's normal tenure is of 3 years, is now well settled.

6. The Id. Counsel for the applicant has relied on the orders of Mumbai Bench dtd. 18/1/2016 in O.A. No. 413/2015 and dtd.29/2/2016 in O.A. No.758/2015 and also

order dtd. 27/4/2016 in O.A. No. 79/2016 of the Nagpur Bench ( which was passed by me ) in support of his contention that the normal tenure of a Group-'C' employee is 6 years. On perusal of these orders, I find that the Tribunal did hold that the normal tenure is 6 years. However, it is also clear that this view was taken without having the benefits of perusing the Tribunal's order in O.A. No.381/2009. As this order has now been produced before me by the Id. Sp. Counsel for the respondents, a different view is required to be taken in the light of this order.


7. In view of what is stated earlier, as I find that the applicant was transferred after completion of his normal tenure of 3 years, the question of the impugned order suffering from non-compliance of the provisions of Section 4 does not arise. Hence the O.A. stands rejected with no order as to costs.

D. M. Kakani  
for Shree  
16-6-2016

Skt.

R.  
C.F.A 22/6/2016

**True Copy**

  
Assistant Registrar  
Maharashtra Administrative Tribunal  
Nagpur