

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 388 of 2016**

Ravi S/o Dhanraj Sahare,
Aged 42 years, Occ. Working as Peon (Group-D)
at O/o Jt. Director, Divisional Agriculture Division, Nagpur
R/o Circle no.17/23, Laksaribagh, beside NIT Garden,
Nagpur-17.

Applicant.

Versus

- 1) The State of Maharashtra
through the Secretary,
Govt. of Maharashtra, Ministry of Agriculture Department,
Mantralaya, Mumbai-32.
- 2) Joint Director,
Divisional Agricultural Directorate,
Nagpur Division, Nagpur.
- 3) District Superintendent,
Agriculture Officer, Nagpur
Civil Lines, Nagpur.

Respondents

**Mr. R.S. Khobragade, Mrs. S.R. Khobragade, Advocates for the
applicant.**

Mrs. S.V. Kolhe, P.O. for the respondents.

Coram :- Hon'ble Shri S.S. Hingne, Member (J).

Dated :- 08/09/2016.

ORDER -

The applicant the Peon has challenged the order dated 31-05-2016 (A-1,P-16) by which he is transferred from Nagpur to Narkhed.

2. Heard Shri R.S. Khobragade, Id. Counsel for the applicant and Smt. S.V. Kolhe, Id. P.O. for the Respondents.

3. The main plank of the contention of the applicant is that he is a Group-D employee who is normally not subjected to fix tenure and is not to be transferred as per the provisions of Section 3 (2) of The Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (In short 'Transfer Act').

4. The respondents' case is that there are several complaints against the applicant and therefore he is transferred taking recourse of Section 3 (2) of the Transfer Act.

5. From the above legal provision, the Group-D employee is not to be transferred unless certain contingencies exists. The applicant's case is that he is the office bearer i.e. President of Class-IV Agriculture Employees' Association, Nagpur and Secretary of the same State level and therefore such employee is to be posted at Head Quarter. However, no document is filed on record to substantiate the submission. The bald averment is of no use without

supported by substantial material. It is contended that the office bearer has to attend Association office. At present the communications are available and there is no substance in the submission.

6. The entire controversy centres around the point about the complaints against the applicant. In the reply the respondent has submitted that there are several continuous complaints against the applicant about working, manner of behaviour and attitude. The bunch of documents are filed which are from page nos. 25 to 41. The memos are issued to applicant from time to time from December,2011 till 30th May,2016. These communications are issued by different officers. Not only that but the various types of memos are issued to applicant. The nature of main and material allegations are that the applicant frequently remains absent from the office and at times takes leave without any intimation, does not obey the orders of the Superiors, does not attend the office in time, does not attend the office duty but seats in the Steno and Visiting Room or elsewhere. Even he did not attend the office despite of directions when the recruitment work was to be carried out. He does not submit the pay bills etc. to the Treasury Office in time. He did not sometime submit the leave application though was absent. He used to sign on the Muster register and remain absent for hours together. He is

negligent in the work. He commits derelict in the duties. He never takes prior permission before proceeding on leave. He does not help to other colleagues. He leaves the office without intimation during the working hours and does not return for hours together. Out of exigency when the duties are changed, he does not attend. He behaves with the superiors and other staff arrogantly and speaks in a loud tone. He was unauthorisedly absent from 13-4-2016, 16-4-2016, 18-4-2016, 21-4-2016, 22-4-2016 and was asked for explanation, but he did not reply. The memos are issued to him from time to time, but he did not bother to reply. Once only he has given the explanation contending that mistakes are committed inadvertently. It is reflected in all these memos that several times he was given instructions to improve his attitude and behaviour but there is no any improvement in his work and attitude. The details of dates of absence, issuance of memos, duration of absence, i.e., times also mentioned in all these correspondence. Thus this voluminous documents giving all and the particulars of attitude work, time of absence etc. are reflected in the memos.

7. The applicant's case is that his C.R. is Good and for that he relied on the document (A-3,P-51) i.e. the C.R. of one year is "Positively Good". The C.R. is of one year only whereas, the above referred memos are issued by the different authorities. No

malice or malafides are alleged against them. They will not issue memos without rhyme or reasons. In the above facts no capital can be made in one C.R. and no significance can be attached to it.

8. It is contended that the applicant's work under the control of the other officers and the orders and memos are issued by higher authorities as observed earlier and the memos are issued by different officers. When the several memos are continuously issued it is inevitable for the smooth administration for the higher authority to look into the matter and take corrective steps.

9. The learned counsel for the applicant as a last string to the bow submitted that Group-D employee can be transferred if there is a serious nature of complaint against him and there is no involvement of applicant in Anti-Corruption or grave offence, no D.Es. held against him and the allegations are not serious. However, one cannot be oblivious of the fact that the administration of the department is very crucial and important aspect to run the office and to serve the public interest. If day to day work is disturbed, it certainly paralyse the administration. If one employee is trouble some, the other employees also are motivated thereby to indulge in other activities and it disturbs the office administration and affect the office and public work. There is a chain of instances of attitude of applicant. On perusal of the memos one leaves with the impression that it is very

trouble some to work for the other officer to work with such an employee and the cumulative of such complaint leads to inescapable conclusion that the complaints are serious and grave in nature. Under Section 3 (2) of the Transfer Act even the single nature of serious complaint is sufficient to transfer the Group-D employee. In the case in hand there are innumerable complaints which affect the day to day administration and therefore such complaints are to be termed as grave and serious nature.

10. It is also urged that the transfer amounts to punishment and no inquiry is held. However to check day to day administration, every time to hold the inquiry will not be resorted to check the smooth administration and sometimes the transfer is the only panacea. There are no allegations of malice against any officers so as to hold that action is punitive in nature. On the contrary from the overwhelming material on record one is left with no alternative but to held that transfer the applicant is the administrative exigency.

11. Having regard to these reasons, there is no merit in the case propounded by the applicant. The O.A. is devoid of merit. Consequently it is rejected with no order as to costs.

(S.S.Hingne)
Member (J).