

1

THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.413 OF 2015

DISTRICT: PUNE

Smt. Aruna Jagannath Londhe,)
Working as Workshop Assistant,)
District Institution of Education and Training,)
Loni Kalbhor, District Pune.)
R/o. Nandanwan Colony, Bhosari,)
Pune 39)

Address for Service of Notice :-

Shri B.A. Bandiwadekar, Advocate)
Having office at 9, "Ram-Kripa",)
Lt. Dilip Gupte Marg,)
Mahim, Mumbai 400 016) Applicant

Versus

1. The Divisional Deputy Director of Education)
Pune Division, Pune)
(School Education), M.S.,)
Pune, having office at 17, Ambedkar Road,)
Pune 1)
2. Shri B.M. Khedkar)
Working as Workshop Assistant,)
D.I.E.T., Sangamner,)
District Ahmednagar)Respondents

Shri B.A. Bandiwadekar, the learned Advocate for the Applicant.

Shri A.J. Chougule, the learned Presenting Officer for the Respondent No.1.

None for Respondent No.2.

CORAM : JUSTICE SHRI M.N. GILANI, MEMBER (J)

DATE : 18.01.2016.

J U D G M E N T

1. The applicant has impugned the order dated 30.05.2015 passed by Respondent No.1 transferring her from the post of Workshop Assistant at District Institution of Education and Training, Loni Kalbhor, Pune to the same post at District Institution of Education and Training (hereinafter referred at D.I.E.T.), Velapur, District – Solapur.

2. The Petitioner joined as Workshop Assistant- Class III on 24.11.2003. On 26.05.2010 she was transferred from Sangamner, District Ahmednagar to Loni Kalbhor, Pune. It is her case that she being class-III employee her normal tenure is of six years. As on 30.05.2015 she completed just five years and therefore was not due for transfer.

3. The Respondent No.1 submitted affidavit-in-reply. It is not denied that the Petitioner is working at D.I.E.T., Loni Kalbhor, Pune since 18.06.2010 and she has not completed normal tenure of six years. In paragraph 6 and 7 reasons for transferring the applicant to D.I.E.T., Velapur, District - Solapur have been assigned. Same are reproduced below :-

“6. With reference to para No.6.4, I say and submit that it is submitted that petitioner has not completed normal tenure of 6 years on the post of District Institution of Education and Training Loni – Kalbhor. But Mr. A.A. Salgad is working from last 15 years on the same post at District Institution of Education and Training, Solapur. There is request from Mr. B.M. Khedkar for transfer at Loni- Kalbhor on the same post. Considering above point 2 and 3, the order 30/05/2015 is the transfer order issued which is shown of Exhibit R-1.


7. With reference to para no.6.5, I say that the contents stated herein are not admitted. The fact for issuing this order is that Mr. A.A. Salgad has working from last 15 years on the same post at District Institution of Education and Training, Solapur and Mr. B.M.

Khedkar working on the same post at Sangamner. Mr. B.M. Khedkar has request to transfer at D.I.E.T. Loni – Kalbhor, Pune.

4. It is therefore obvious that the petitioner has been considered for transfer, although she did not complete normal tenure of six years. Secondly, one Shri A.A. Salgad who has long inning of 15 years at D.I.E.T., Solapur was required to be slated. Further, there was a request from Shri P.M. Khedkar, Respondent No.2 herein to transfer him at Loni, Kalbhor i.e. in place of the petitioner. That means to oblige Shri B.M. Khedkar and having regard to the fact that Shri A.A Salgad completed 15 years at Solapur, the transfers dated 30.05.2015 were made.

5. Ex-facie, the transfer appears arbitrary qua the Petitioner. Further, there is a blatant violation of provision of Section 4 (5) and (6) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred as Transfer Act). As per table appended to Section 6, all employees in Group-C can be transferred by the Head of the Department.

6. Shri A.J. Chougule, learned P.O. was fair enough to admit that Shri Ramchandra N. Jadhav, the then Deputy Director, Pune Division, Pune who has signed the order is not the Head of the Department, although he is appointing authority. Apart from that if the Government servant is to be transferred before completion of his tenure, it can be done by the competent authority in special case, after recording reasons in writing and with prior approval of immediately superior authority. In the case in hand no such approval was obtained. After going through the transfer file learned P.O. has clarified that such approval of immediately superior authority was obtained qua Shri A.A. Salgad and not in respect of the Applicant. It is not explained why this was not done in respect of the Petitioner. Having noticed blatant violation of provisions of Transfer Act, this Tribunal on 04.06.2015 granted interim relief in following terms :-



“8. The order of transfer herein impugned is stayed and the Applicant even if technically relieved be reposted on the post she has held till now within one week from today.”

It has been clarified that pursuant to this order the Petitioner has been reposted at D.I.E.T., Loni Kalbhor, Pune. For the reasons aforesaid interim order will have to be confirmed.

ORDER

O.A. is allowed. The order dated 30.05.2015 transferring the Applicant from the post of Workshop Assistant, D.I.E.T., Loni Kalbhor, Pune to D.I.E.T., Velapur, District- Solapur, is quashed and set aside.

It is clarified that the Respondent No.1 shall not be precluded from considering the case of petitioner and Respondent No.2 for transfer in ensuing general transfer of April – May 2016, according to law.

Sd/-

(M.N. Gilani J.)
Member (J)

prk