

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO.451/2016

Mrs. Sumitra W/o Ramaji Parteki,
Aged about 53 years, Occ. Service,
R/o General Hospital, Wardha.

Applicant

Versus

- 1) The State of Maharashtra,
Through its Additional Chief Secretary,
Public Health Department, 10th floor, Gokuldas
Tejpal Hosital Campus, Fort, Mumbai-01.
- 2) The Director of Public Heatlh,
Maharashtra State, Arogya Bhawan,
Sent Georges Hospital, Campus, P. Demelo Road,
Fort, Mumbai-01
- 3) Deputy Director of Health Services,
Nagpur Region, Mata Kacheri Compound,
Sraddhanand Peth, Nagpur-22.
- 4) Civil Surgeon,
General Hospital, Wardha.
- 5) Shri Harshal Wasudeo Pujari,
Aged Major, Occ. Service,
R/o Linen Keeper General Hospital,
Bhandara.
- 6) Shri Pande,
Aged major Occ. Linen Keeper
R/o C/o Office of the Deputy Director of Health
Services, Nagpur Region, Mata Kacheri Compound,
Sraddhanand Peth, Nagpur-22.

Respondents

Shri N.D. Thombre, Advocate for the applicant.

Shri A.M. Khadatkhar, P.O. for the respondent nos. 1 to 4.

None for R-5 & 6.

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

Dated :- 16th January 2017.

ORDER -

Heard Shri N.D. Thombre, Id. counsel for the applicant and Shri A.M. Khadatkhar, Id. P.O. for R-1 to 4. None for R-5&6.

2. The applicant a Linen Keeper has challenged the order dated 31-5-2016 (A-1,P-14), by which she is transferred from Wardha to Bhandara.

3. The applicant is transferred from Wardha to Bhandara vide order dated 31-5-2016 which is impugned. Her grievance is that R-5 is retained on the pretext of deputation for years together. However, applicant's difficulties though genuine, are not considered. She was fade up and hence she submitted resignation. This shows gravity of her sense of injustice.

4. It reveals that the applicant and R/5 both were due for transfer. However, the grievance of the applicant is that R/5 is

accommodated and was kept on deputation though the Govt. has issued several instructions and resolutions that the employee should not be sent on deputation for a prolonged period. The Govt. has recently issued the G.R. dated 17-12-2016 laying down the guidelines.

5. It is contended that the deputation of R/5 is cancelled or likely to be cancelled. Considering the nature of the work and since the applicant has a sense of injustice she has submitted the resignation application. This shows the gravity. If the applicant has a sense of injustice and she has gone to the extent to resign, itself speaks volumes that the she is fade up and smooth administration is not going on. Not only that but the applicant's resignation application was also not accepted because she had not joined after transfer and had not sent through proper channel. No doubt the official formalities are required to be complied. No doubt such cannot be a reason to interfere in the order, but such instances are sufficient to throw light how the sense of injustice can be developed in the mind of the employees.

6. Needless to mention that when the general transfers are to be issued, there should be some procedure regulating and streamlining the transfers which should be uniformly followed so that there cannot be any grudge and grievance or sense of favour or disfavor to some and injustice to the other employees.

7. The Transfer Act is silent on such points. In several cases, transfer orders are being challenged and most of the time of the Tribunals is spent to decide such matters. The matters are decided taking into consideration the legality and validity of the order, testing the same on the touchstone of the provisions of the Transfer Act. However, considering the spate of the cases in Courts and since there are no guidelines issued by the departments, it is necessary that there should be some guidelines regulating and observing such guideline, the transfer be made. For instance, when the employee's *en mass* are to be transferred, seniority at the station or seniority inservice should be considered and then transfer orders should be issued. There should be some guidelines to consider the work load at a particular station, so also the qualities of a particular employee be considered so that his services can be well utilized considering the need at a particular place. So also personal difficulties of the employee should be considered. If he is working on retention at a particular place or posting at a particular place, educational difficulties of the children, so also the domestic difficulties, physical ailment also should be considered and all these matters should be reflected in black and white. If it is followed, it can minimize the grievance of the employees that no favour is shown to anybody. So also to a particular employee should not be placed at the same place

repeatedly. It also transpires that several employees are sent on deputation ignoring the G.Rs that the employee should be sent on deputation for a long period. The employees are sent on deputation with a short break and the provisions of the G.Rs are correctly flouted. All needs to be checked, to have good governance and good administration.

8. At present no such guidelines are placed for perusal to show that the same are being observed. With that view only, to have a transparency in the transfer matters and remove the sense of favour or disfavor and injustice malice, in the minds of the employees and to have smooth and good administration, the Hon'ble Supreme Court has laid down guidelines in case of **T.S.R. Subramanian and others V/s Union of India and others (2014) SCC (L&S) 296** and the Civil Services Board are established. However, it reveals from the record that all such material are not placed before the Civil Services Board and, therefore, the Civil Services Board have also no occasion to consider. To follow the guidelines laid down by the Apex Court of the land in true letter and spirit, it is necessary to do all this. Several matters are filed in the Tribunals, challenging the transfers and much time of the Govt. offices and Govt. servants and Tribunals is spent for that and as such it is necessary that all these need to be checked.

9. It is now need of time that the aspects of transfers need to be streamlined as narrated above which can be done, if the Govt. lays down exhaustive guidelines regulating the transfers. The same cannot be done unless any order is cancelled on such ground.

10. Having regard to the same, following order is passed:

- (i) The O.A. is allowed.
- (ii) The impugned transfer order of applicant is quashed.
- (iii) No order as to costs.
- (iv) The respondents are at liberty to transfer the applicant in general transfer of 2017.
- (v) The copy of the order be sent to the Hon'ble Chief Secretary to take necessary steps.

(S.S.Hingne)
Vice-Chairman.