

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.500 OF 2022

DISTRICT : PUNE

Sub.:- Transfer

Shri Pratap B. Jagtap.)
Age : 31 Yrs, Working as Range Forest)
Officer, Residing at Om Shreenath Krupa,)
Vrindavan Society, Kharadi, Pune – 14.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through Addl. Chief Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai – 400 032.)
2. Principal Chief Conservator of Forest)
Vanbhavan, Rangiri Road,)
Civil Lines, Nagpur – 440 001.)...**Respondents**

Smt. Punam Mahajan, Advocate for Applicant.

Shri A.J. Chougule, Presenting Officer for Respondents.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 29.03.2023

JUDGMENT

1. The Applicant has challenged the transfer order dated 20.05.2022 whereby he was transferred from the post of Range Forest Officer (RFO), Talki Dhokeshwar, Ahmednagar Forest Division, Nashik Circle to Range Forest Officer, Social Forestry, Karjat, District Alibaug, Thane Circle, invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. Briefly stated facts giving rise to this application are as under :-

The Applicant is serving in Forest Department as Range Forest Officer. By order dated 28.05.2019, in general transfers, he was transferred from Shrigonda to Talki Dhokeshwar, Ahmednagar Forest Division, Nashik. Later, he made representation to the Government for change of revenue division from Nashik to Pune Division on the ground of serious illness of his father under Rule 12 of 'Divisional Cadre Allotment Rules, 2015 (hereinafter referred to as 'Cadre Allotment Rules, 2015' for brevity. The Government by order dated 18.06.2021 accepted his request and he was allotted Pune Revenue Division, since he had already completed one year and was eligible to change the division in terms of Rule 12 of 'Cadre Allotment Rules, 2015'. On that basis, the Applicant made representation on 12.08.2021 giving options of Pune Revenue Division. However, in general transfers of 2022, he was posted at Social Forestry, Karjat, District Alibaug, Thane Circle. It is on this background, the Applicant has filed the present O.A. *inter-alia* contending that in view of order passed by the Government dated 18.06.2021 about change of Division from Nashik to Pune, he ought to have been given posting in Pune Circle, since two posts at Pune Circle were vacant and had also given options to that effect as Option Nos.1 and 2.

3. The Tribunal had granted interim relief by order dated 30.05.2022 not to fill-in the post of RFO, Protection and Encroachment Department, Pune Division and the interim relief is continued till date.

4. The Respondents resisted O.A. *inter-alia* contending that since Applicant has given option No.3 at Karjat as per his own option and in view of the recommendation made by the Civil Services Board (CSB), he accordingly posted at Karjat. Hence, the grievance against the transfer order dated 20.05.2022 is without merit.

5. Heard Smt. Punam Mahajan, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

6. Indisputably, initially, the Applicant was allotted Nashik Revenue Division in terms of 'Cadre Allotment Rules, 2015', but later, the Government by order dated 18.06.2021 changed his Revenue Division from Nashik to Pune exercising powers under Rule 12 of 'Cadre Allotment Rules, 2015'. As per Rule 12, the request for change of Revenue Division is permissible on the ground of serious illness of parents. In the present case, on the ground of illness of father since he was suffering from Chronic Renal Failure, his request was accepted by the Government by order dated 18.06.2021. Thus, notably, Revenue Division was changed much before transfer order dated 20.05.2022. He made specific representation on 12.08.2021 for giving posting in Pune Revenue Division in terms of order passed by Government on 18.06.2021. Indeed, once Government had changed Revenue Division from Nashik to Pune, he ought to have been given posting in Pune Revenue Division, but the order of Government dated 18.06.2021 has been completely ignored. True, while giving options, 3rd option given by the Applicant was of Karjat, Alibaug, which was given to him in impugned order dated 20.05.2022. However, only because Applicant has given 3rd option of Karjat, that would hardly come in his way, since option Nos.1 and 2 were from Pune Division which were admittedly vacant at the time of impugned transfer order. As such, CSB as well as Respondent No.2 completely ignored the order of Government dated 18.06.2021 in terms of which he was entitled for getting posting in Pune Revenue Division.

7. The submission advanced by the learned P.O. that the cadre of Range Forest Officer is State Cadre, and therefore, he can be transferred anywhere though principally correct, but in view of order of Government dated 18.06.2021 about the change of Division, he ought to have been given posting in Pune Revenue Division, otherwise the order dated

18.06.2021 about change of Division would be frustrated, which is totally impermissible.

8. Now, General Transfers of 2023 are due within next two months. This being so, the Applicant needs to be accommodated and posted in Pune Revenue Division on any suitable post in Forest Department. Till then, the Applicant shall continue at his present post at Karjat. Hence, the following order.

ORDER

- (A) Original Application is allowed partly.
- (B) The transfer order dated 20.05.2022 qua the Applicant to the extent of posting at Karjat is quashed and set aside. However, Applicant shall continue at Karjat till General Transfers of 2023.
- (C) Respondent No.2 is directed to give posting to the Applicant in Pune Revenue Division in Forest Department on any suitable post in General Transfers scheduled in the month of May, 2023.
- (D) If for one or other reason General Transfers are not effected in May, 2023, in that event also, the Applicant be transferred in Pune Revenue Division treating it as individual case.
- (E) No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Mumbai

Date : 29.03.2023

Dictation taken by :

S.K. Wamanse.

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