

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.565/2017.

(S.B.)

Gajanan Dayaramji Maraskolhe,
Aged about 55 years,
Occ-Service as Forester,
R/o Jaiprakash Ward, Near Mothi Gad Payari,
Ramtek, District- Nagpur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Forests,
Mantralaya, Mumbai-32.
2. The Chief Conservator of Forests,
(Territorial), Near Govt. Press, Zero Mile,
Nagpur-440 001.
3. The Deputy Conservator of Forests,
Nagpur Forest Circle, Nagpur.
4. The Range Forest Officer, Devlappar,
Tq. Ramtek, Distt. Nagpur.

Respondents.

Shri P.V. Thakre, the learned counsel for the applicant.
Shri A.M. Khadatkar, the Ld. P.O. for the respondents.

Coram:- Shri J.D. Kulkarni,
Vice-Chairman (J).

JUDGMENT

(Delivered on this 22nd day of December 2017).

Heard Shri P.V. Thakre, the learned counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for the respondents.

2. The applicant was appointed as Forest Guard in 1982 and was promoted as Forester in 2011. On promotion, he was posted at Devlapar Forest Range. In 2013, the applicant was posted at Karwahi Round of Devlapar Forest Range.

3. According to the applicant, the Govt. of Maharashtra has issued various G.Rs such as on 11.7.2000, 6.8.2002 and 7.1.2006 whereby special privileges have been granted to the persons working in naxalite affected area / rural area. As per the provisions of these G.Rs., it has been directed that those officers who have completed two years or tenure of their posting in naxalite affected area / rural area, shall be given choice posting after completion of their tenure. It is also stated that those officers who are more than 50 years of age, shall not be re-posted in the naxalite affected area / rural area.

4. The applicant has completed more than five years in the naxalite affected area / rural area and, therefore, on 23.5.2017, he filed representation and requested the authorities to give him posting either at Ramtek or at Paoni. In spite of such representation, vide order dated 30.9.2017, the applicant has been transferred from Karwahi Round of Devlapar Forest Range to Mapera Round of Forest

Range, Tumsar, District Bhandara. Thus, the applicant has been again transferred to naxalite affected area / rural area against the provisions of circular issued from time to time as already referred.

5. According to the applicant, the respondent Nos. 3 and 4 have passed the orders on 3.7.2017 and 14.6.2017 whereby the applicant was directed to be relieved. However, the applicant proceeded on medical leave on 27.6.2017. But he was relieved by respondent No.4 ex-parte. The applicant again made representation on 3.6.2017 and requested that his transfer order be cancelled. But it was not considered. Hence, this O.A.

6. According to the applicant, the impugned order of his transfer is illegal and against the provisions of various circulars and against the directions issued by the competent authorities. During the pendency of the O.A., the applicant's representation dated 31.10.2017 for cancellation of his transfer has been rejected. The applicant states that the said communication dated 31.10.2017 rejecting his representation be quashed and set aside, since the said rejection is colourable exercise of power.

7. The Range Forest Officer, Devlapar (R.4) and respondent No.2 i.e. the Chief Conservator of Forests, Nagpur have filed their separate affidavits-in-reply and tried to justify the order of transfer of the applicant. So far as the personal grounds of the

applicant are concerned, i.e. regarding illness of the applicant's mother and educational problems of his children, it is stated that there is no documentary evidence placed on record in support of the said ground.

8. It is stated that the applicant has been transferred near to his native place. It is further stated that the applicant has already completed the tenure and the place of his transfer is hardly 50 Kms. from his native place. It is further stated that the places of choice given by the applicant are in the area where the applicant owns and possesses immovable property and those places are also in the naxalite affected area / rural area.

9. As regards rejection of representation of the applicant, it is stated that the respondent authorities have considered the antecedents of the applicant from which it seems that the applicant is serving in Nagpur district only from last 30 years. Since 1989, he had served in an around Parseoni, Ramtek, Devlapar and Umred regions which are in the very close proximity. Vide his representation dated 3.6.2017, the applicant has requested that he may be posted in the same region again. The competent authorities have taken into consideration the administrative exigencies and suitability of the Government servant and the Civil Services Board recommended the applicant's transfer. After considering the personal grounds and

administrative convenience, representation of the applicant was rejected.

10. Shri P.V. Thakre, the learned counsel for the applicant submits that the three G.Rs which are already referred, clearly state that an employee shall not be posted in a remote place or in the naxalite affected area / rural area, once he has crossed the age of 50 years. It is stated that the applicant is due for retirement within next three years and, therefore, this fact should have been considered by the competent authority. In this regard, it is material to note that there is no dispute that the applicant has completed his tenure in the post from where he has been transferred and, therefore, he was due for transfer. Even though the applicant has crossed the age of 50 years he himself has opted for his transfer in Ramtek region which is admittedly a naxalite affected area / rural area. In such circumstances, it cannot lie in the mouth of the applicant that he should not have been transferred in the naxalite affected area / rural area. The applicant has been transferred just at a distance of 50 to 60 Kms. away from his native place and, therefore, it cannot be said that his convenience was not considered.

11. The learned P.O. has placed on record the observations made by the Chief Conservator of Forests, Nagpur (R.2) while rejecting the applicant's representation for transfer of his choice

posting. The said observation is at page Nos. 36 to 38 (both inclusive) and it is marked %-1+ for the purpose of identification. It seems that from 30.1.1982 till 31.5.2017, the applicant was serving in the Forest Range of Umred, Kanholi, Hingna, Charangaon, Devlapar and Karwahi. All these regions are near Nagpur and the headquarters of all these regions is at Nagpur. The Chief Conservator of Forests, Nagpur has observed that from last 35 years, the applicant has been serving in Nagpur region only and since 1989, he has been serving in an around Parseoni, Ramtek, Devlapar and Umred regions which are in close proximity. It is stated that, the respondent authorities have considered the representation of the Civil Services Board and, therefore, posted the applicant as per order dated 30.5.2017 in Bapera of Tumsar Forest Range in Bhandara Division. It is also adjacent district to Nagpur. In the reply affidavit, it is stated that the applicant has been transferred to Tumsar Forest Range which is hardly 50 Kms. from Devlapar. It is further stated that in between Devlapar and Tumsar, applicant's native place Ramtek is situated and, therefore, the applicant has been transferred near his native place. Considering this aspect, I do not find any malafides on the part of the respondents in not considering the applicant's request for his choice posting.

12. The learned counsel for the applicant submits that vide order dated 3.8.2017, as many as nine officers were transferred at

the places of their choice. However, the applicant was not considered. Even accepting this fact, it cannot be said that there was malafide on the part of the respondent authorities not to consider the applicant's choice. While giving choice posting, there is likelihood of injustice to some officers, as all the officers cannot be adjusted at their places of choice. The applicant did not plead any malafides on the part of the respondent authorities in not considering his case favourably and, therefore, in the absence of any specific malafides, applicant's transfer cannot be said to be illegal. The learned counsel for the applicant invited my attention to the rejoinder filed by the applicant. In the said rejoinder, it is stated that the whole decision making process of respondent authorities needs to be examined. It is stated that the applicant has made representations on 23.5.2017 and 3.6.2017 and the same were not placed before the Civil Services Board on 17.7.2017. The Chief Conservator of Forests, Nagpur has stated in his order dated 31.10.2017 that the case of the applicant was recommended by the Civil Services Board while passing impugned order dated 30.5.2017 and as per the said recommendation the applicant was transferred at Bapera, Tumsar Forest Range in Bhandara Division. The Chief Conservator of Forests, Nagpur has also taken into consideration the applicant's tenure in Nagpur Region and also all his previous postings in the region and has clearly stated that

the administrative exigency cannot be sacrificed for the family reasons of Government servant. As already stated, I do not find any malafides on the part of the respondent authorities to reject the applicant's representation. The applicant himself is asking for his transfer again in the naxalite affected area / rural area of his choice and, therefore, he cannot say that the directions in the G.Rs already referred have not been followed scrupulously. In short, I do not find it necessary to interfere in the administrative decision taken by the respondent authorities in respect of applicant's transfer. Hence, I proceed to pass the following order:-

ORDER

The O.A. is dismissed with no order as to costs.

Dt. 22.12.2017.

(J.D.Kulkarni)
Vice-Chairman(J)