

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.640 OF 2021**

Shri Ram Ganu Ghagas )  
Working as Talathi )  
Saza Akloli, Office of Tahasildar )  
Bhiwandi, Dist. Thane )  
R/o. Vighneshwar Residency )  
A/P/T. Shahapur, Dist. Thane. )

Address for service of notice.

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

**Versus**

1. The Sub-Divisional Officer, )  
Bhiwandi Division, Bhiwandi, )  
District Thane )
2. Mr. Rohan Pawar, )  
Worked as Talathi, )  
Saza Khaling, now transferred to )  
Saza Arjunali. )  
Tal. Bhiwandi, Dist. Thane )
3. Mr. Narsubaba P. Tugave, )  
Worked as Talathi, Saza Ambadi, )  
Now transferred to Saza Koshimbi, )  
Tal. Bhiwandi, Dist. Thane )

**....Respondents.**

Mr. Bhushan A. Bandiwadekar, learned Advocate for the Applicant  
Ms. K.S. Gaikwad, learned Presenting Officer for the Respondents.

**CORAM** : JUSTICE MRIDULA BHATKAR, CHAIRPERSON

**DATE** : 30.08.2021

**J U D G M E N T**

1. The Applicant challenges the order dated 06.08.2021 transferring him from the post of Talathi, Sajja Akloli, Taluka Bhiwandi to the post of Talathi, Sajja Ambadi, Taluka Bhiwandi on the following grounds:-

(a) The order 06.08.2021 is issued by the Sub Divisional Officer (SDO) whereby the competent transferring authority is the District Collector i.e. the head of the Department for Group-C and SDO is the transferring authority for Group-D, whereas the applicant falls in Group C. He relied on the judgment of this Tribunal in O.A.No.762 /2019 dated 06.02.2020 (Smt. Sarala S. Tekam V/s. The Sub Divisional Officer & Ors.), wherein at paragraph 7 it is held that,

*“Furthermore, the Applicant being Group-C employee, the head of the department is Collector as seen from the Notification dated 19.03.2015 issued by the Government. This Notification is issued in terms of Section 7 of ‘Act 2005’.*

(b) The applicant working at Sajja Akloli, Taluka Bhiwandi, District-Thane which is a considered as Tribal area and is transfer to another Tribal and difficult area i.e. Sajja Ambadi, Taluka Bhiwandi. He submits that as per Government Resolution (G.R.) dated 11.07.2020 if the person has worked at difficult area he/she should be given next posting as per the choices given by him/her. He points out that he has given 5 choices in the proforma i.e. Arjunali, Khoni, Wadape, Dahale and Bhinal. All of them falls in Taluka Bhiwandi.

(c) The applicant has completed 5 years and 10 months and is yet to complete the full tenure of 6 years. Therefore, transfer is not as per Section 4(5) of the Maharashtra Government Servants Regulation

of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred as ROT Act, 2005 for brevity).

(d) There is no sanction of the immediate superior authority i.e. Minister.

(e) The case of the applicant was not placed before the Civil Service Board (CSB).

2. The learned P.O. for the Respondents states as follows :-

(a) The learned P.O. submits that the G.R. dated 30.07.2021 was issued in exercise of the powers confirmed by Section 7 of ROT Act, 2005 by which the Notification dated 19.03.2015 about the competency of the authority is superseded. She submits that by the said Notification the District Collector is the head of the Department and the competent authority /transferring authority for Group-C excluding the post of Talathi. She further submits that for the post of Talathi the appointing authority is the competent transferring authority and therefore the appointing authority of Talathi is SDO, hence competent transferring authority is the SDO.

(b) She submits that the CSB was conducted on 06.08.2021 under the presidential-ship of the Collector and thus there is approval of the Collector which is the immediate superior authority of SDO.

(c) She submits that the applicant is already relieved on 09.08.2021.

3. The learned P.O. submits on instructions that today the CSB meeting is going to be conducted wherein the representation of the applicant that he is to be given posting at non-Tribal or non-PESA region will be considered.

4. The learned Advocate submits that the CSB is required to consider the preferences given by the Applicant. He further challenges the competency of the appointing authority who is SDO.

5. Perused the Notification dated 30.07.2021 stating that the District Collector is head of the Department in Group-C, however this Notification only excludes Talathi from the power and jurisdiction of District Collector as the competent transferring authority but nowhere this Notification states who is the competent transferring authority for Talathi. This ambiguity in the Notification dated 30.02.2021 issued by the Additional Chief Secretary hence, the Additional Chief Secretary to take note of it. Only on this point the order be quashed and set aside.

6. The applicant to continue at Sajja Akloli, Taluka Bhiwandi. Respondent has power to pass another order of transfer by observing all the legality.

7. In view of this O.A. is disposed off with no order as to costs.

Sd/-

**(Mridula Bhatkar, J.)**  
**Chairperson**

prk