

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI, BENCH NAGPUR**

ORIGINAL APPLICATION NO 701 OF 2016

DISTRICT : WASHIM

Smt Amita M. Khandare,)
Occ : Retd, R/o: Mahasul Colony,)
Karanja [Lad], Tah-Karanja [Lad],)
Dist-Washim.)...**Applicant**

Versus

1. The State of Maharashtra)
Through its Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai 400 032.)
2. The Divisional Commissioner,)
Amravati.)
3. The Collector,)
Washim, Dist-Washim.)

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4. The Sub Divisional Officer)
at Karanja, Dist-Washim.)
5. The Tahsildar at Karanja,)
Dist-Washim.)...**Respondents**

Shri A.S Chokotkar advocate for the Applicant.

Shri M.I Khan, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 10.03.2017

ORDER

1. Heard Shri A.S Chokotkar advocate for the Applicant and Shri M.I Khan, learned Presenting Officer for the Respondents.


2. This Original Application has been filed by the Applicant who is seeking release of salary for the period from 1.11.2014 to 6.10.2015 and also release of retirement benefits on that basis.

3. Learned Counsel for the Applicant argued that the Applicant was transferred while working as Naib Tahsildar at Karanja to Murtijapur by order dated

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26.8.2014. The Applicant filed Original Application no. 23/2015 before this Tribunal and by order dated 3.9.2015, the impugned order dated 26.8.2014 was quashed and set aside. The Applicant was reposted at Karanja by order of the Respondent no. 2 dated 29.9.2015. Learned Counsel for the Applicant stated that as the Applicant's transfer was found invalid by this Tribunal, the period when she was not working at Karanja should be treated as duty period or at the most may be regularized by granting her medical leave during that period from 1.11.2014 to 6.10.2015.

4. Learned Presenting Officer stated that the Applicant was transferred from Karanja to Murtijapur by order dated 26.8.2014. The Applicant never joined at Murtijapur and sent applications for medical leave from time to time. Copies of these applications are annexed at Annexure R-3 (page 30 to 36 of the O.A). Though the Applicant has applied for leave on medical grounds, no medical certificates were attached, not did the Applicant produce fitness certificate on rejoining the duties. Learned Presenting Officer also stated that it is very strange that as soon as the Applicant was transferred to Murtijapur she fell sick and as soon as her Original Application was allowed challenging her transfer, she recovered. Learned Presenting Officer stated that there is no merit in the Original Application.



5. It is correct that the Applicant did not join as Resident Naib Tahsildar, Murtijapur where she was posted by order dated 26.8.2014. She filed O.A no 23/2015 before this Tribunal challenging her transfer by order dated 26.8.2014 and by order dated 3.9.2015 the said transfer order was quashed and set aside by this Tribunal. During the period from the date of her transfer to Murtijapur till the date of the order of this Tribunal, the Applicant did not join any post and sent a number of leave applications on medical grounds. The Respondents have claimed that the Applicant did not attach any medical certificates to these leave applications. The Applicant has not been able to controvert this fact. It is quite clear that she was by strange coincidence sick during the period when she was posted to Murtijapur till her order of posting to Murtijapur was cancelled by this Tribunal. In my opinion, she has not been able to make out a case to grant her pay for that period. In Annexure A-3-V, page 40 of the Paper Book, it is seen that Respondent no. 3 has written to Respondent no. 2 on 19.11.2016 seeking orders regarding treatment of the period from 23.10.2014 to 6.10.2015 when the Applicant was absent from duty. Respondent no. 2 appears to be the competent authority to decide the nature of leave etc during this period.

6. In view of the above, Respondent no. 2 is directed to decide this issue within a period of six weeks

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from the date of this order. Based on the decision of the Respondent no. 2, the pensionary claim of the Applicant should also be decided within a further period of 3 months thereafter. Original Application is accordingly disposed of with no order as to costs.

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**(Rajiv Agarwal)
Vice-Chairman**

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Place : Mumbai Nagpur
Date : 10.03.2017
Dictation taken by : A.K. Nair.

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