

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**ORIGINAL APPLICATION NO.847/2023  
(AURANGABAD BENCH)  
(Though Video conferencing)**

Dr. Pradyumna Hanumantrao Warwantkar)  
Age : 37 years, Occ. Govt. Service : Doctor, )  
Water Tank, New Nanded, HUDCO, )  
Nanded, Maharashtra 431 603 )

**....Applicant**

**Versus**

1. The State of Maharashtra )  
Through its Principal Secretary, )  
Public Health Department, )  
Mantralaya, Mumbai 32 )
2. The Commissioner, )  
Commissionerate of Health Service, )  
Mumbai 32 )
3. The Deputy Director, )  
Health Services, Aurangabad circle, )  
Aurangabad. )
4. The Chief Executive Officer, )  
Zilla Parishad, Hingoli. )
5. The District Tuberculosis Officer, )  
District Tuberculosis Centre, )  
Hingoli. )
6. Dr. Abhijeet Ganesh Bangar, )  
Address : District Tuberculosis )  
Centre, Hingoli. )

**....Respondents**

Ms. Pradnya Talekar, learned Counsel for the Applicant.

Mr. M.S. Mahajan, learned Chief Presenting Officer for the Respondents.

Mr. J.S. Deshmukh, learned Presenting Officer for the Respondent No.6.

RESERVED ON : 18.10.2023

PRONOUNCED ON : 20.10.2023

**CORAM : JUSTICE MRIDULA BHATKAR, CHAIRPERSON**

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

1. In this transfer matter the Applicant challenges the order dated 29.08.2023 transferring Respondent No.6 from Kalamnuri to District Tuberculosis Center Hingoli where at present the Applicant is posted. Applicant, further also challenges order dated 07.09.2023 issued by Respondent No.5 thereby relieving the Applicant from the post of Medical Officer, District Tuberculosis Centre, Hingoli. Applicant and Private Respondent No.6 are Medical Officers in Government Hospital. Applicant, Medical Officer was working at Jawala Bajar, Aundha Nagnath, Hingoli nearly for six years, so he was transferred from Jawala Bajar, Hingoli to Sub District Hospital, Kalamnuri, Hingoli. It is necessary to mention the relevant orders of transfer and posting of the Applicant and Respondent No.6 to get the correct grasp in nutshell.

Sr. No.	Date of order	Contents of the order
1	10.06.2023	Applicant transferred from Jawala Bajar, Aundha Nagar, Hingoli to Sub District Hospital, Kalamnuri, Hingoli.
2	13.07.2023	Applicant was relieved from Jawala Bajar, Aundha Nagar, Hingoli to join at Sub District Hospital, Kalamnuri, Hingoli, but could not join.

3.	24.07.2023	Applicant was given temporary posting as Medical Officer, District Tuberculosis Centre, Hingoli by the Deputy Director, Health Services, Aurangabad. Applicant joined at District Tuberculosis Centre, Hingoli.
4.	29.08.2023	Respondent No.6 was transferred from Sub District Hospital, Kalamnuri, Hingoli to District Tuberculosis Centre, Hingoli
5.	07.09.2023	Applicant was relieved from District Tuberculosis Centre, Hingoli to enable him to join at Sub District Hospital, Kalamnuri, Hingoli.

2. Learned Counsel Ms. Talekar has pointed out that pursuant to the transfer order dated 10.06.2023 Applicant requested the authority to relieve him by order dated 12.06.2023. However, he was relieved on 13.07.2023 w.e.f. 11.07.2023. On 13.07.2023 the Applicant went to join at Sub District Hospital, Kalamnuri, Hingoli, but he was informed that no post is available for him so he requested the Deputy Director, Health Services, Aurangabad that he should be posted at District Tuberculosis Centre, Hingoli. Thereafter on 24.07.2023 the applicant's order was issued and he was given temporary posting and he joined immediately. Thereafter on 07.08.2023, Respondent No.5 submitted proposal to Respondent No.2 for Applicant's regular posting at Hingoli. Learned Counsel Ms. Talekar has submitted that despite the said proposal Respondent No.6, was transferred in the place of the Applicant and the Applicant is shuffled from one place to other for no fault of his. Learned Counsel Ms. Talekar has submitted that the daughter of the Applicant is studying in 5<sup>th</sup> standard and is admitted in the school at Hingoli. The wife of the Applicant who is working as Community Health Officer at Purjal, Taluka Aundha, District Hingoli

is on her family way, however, the foetus is detected with down syndrome which is required to be treated. Thus, the Applicant is today working as a single parent attending his daughter. Thus, it is not possible for the Applicant to again go back to Kalamnuri. Learned Counsel Ms. Talekar has submitted that the order dated 29.08.2023 transferring the Private Respondent No.6 is illegal and void showing favoritism to Respondent No.6 as his request for transfer from Sub District Hospital, Kalamnuri, Hingoli to District Tuberculosis Centre, Hingoli is accepted and the same cannot be justified under law. Respondent No.6 was transferred on request and which should not have been entertained by the Government at such a late stage.

3. Learned C.P.O. Mr. Mahajan while vehemently opposing this O.A. has relied on the affidavit-in-reply dated 06.10.2023 filed on behalf of Respondents No.1 to 3 and 5, through Dr. Bhushankumar A. Ramteke, In-Charge of Dy. Director in the office of Dy. Director Health Services, District Chhatrapati Sambhaji Nagar. Learned C.P.O. has submitted that by order dated 24.07.2023 the Applicant was posted on temporary basis from Sub District Hospital, Kalamnuri, Hingoli to District Tuberculosis Centre, Hingoli. The applicant was given an idea that it was temporary posting therefore when he had to go back to Sub District Hospital, Kalamnuri, Hingoli he should not have any grievance. While explaining the transfer of Respondent No.6, learned C.P.O. has relied on the minutes of Civil Services Board which was approved by the Hon'ble Minister (Health) on 18.07.2023. Learned C.P.O. has further submitted that the request was made by Respondent No.6 who was working in Sub District Hospital, Kalamnuri, Hingoli since 2019 had completed his tenure of three

years and wanted to be transferred on the ground of his father's illness and for his family. Learned C.P.O. has submitted that this year i.e. after CORONA the State transferred many Medical Officers, and especially who have completed five/six/seven years at a particular place on priority basis. The Applicant is one of them. Respondent No.6 though due for transfer was not initially transferred. However, he made request when he came to know that the post at District Tuberculosis Centre, Hingoli is vacant. Thus, there is no second order of transfer of the Applicant. The Applicant was relieved by order dated 13.07.2023 to join at Sub District Hospital, Kalamnuri, Hingoli which was issued well within time as extended and scheduled by the State.

4. Learned Counsel Mr. Deshmukh has submitted that Respondent No.6 immediately after the issuance of the Medical Officers transfer orders dated 10.06.2023 had placed the application of his request transfer on 15.06.2023 to District Tuberculosis Centre, Hingoli as he found that the said post is vacant. Learned Counsel Mr. Deshmukh has submitted that the Respondent No.6 has completed the period of three years at Sub District Hospital, Kalamnuri, Hingoli. It is not a mid-tenure or mid-term transfer.

5. It is admitted that the Applicant and Respondent No.6 were due for transfer as both have completed three years at their particular place of posting. On perusal of transfer order dated 19.06.2023 and so also posting order dated 14.07.2023 it is found that the submissions made by learned C.P.O. that the State has issued only one transfer order i.e., order dated 10.06.2023 and the order dated

24.07.2023 is not a transfer order, but it is the order issued by the Deputy Director, Health Services, Aurangabad who is incharge of those particular Talukas has given posting order dated 24.07.2023 are correct. Applicant by was posted temporarily at District Tuberculosis Centre, Hingoli and by order dated 07.09.2023 the Applicant was relieved from District Tuberculosis Centre to join at Sub District Hospital, Kalamnuri, Hingoli. The submissions made by learned Counsel Ms. Talekar that the Respondent No.6 has joined before the Applicant was relieved even though is true it does not lead to the inference that the order dated 29.08.2023 transferring the Respondent No.6 is illegal. Basically order of Respondent No.6 itself is a separate and secondary point which cannot be capitalized by connecting with relieving order of the Applicant from Jawala Bajar, Aundha Nagar, Hingoli to join at Sub District Hospital, Kalamnuri, Hingoli.

6. I have considered the submissions of learned Counsel Ms. Talekar in respect of the inconvenience which is going to cause to the Applicant and his daughter. However, during the course of the arguments it was informed that the child of the Applicant was already admitted in the school at Hingoli since last one year. She is travelling to and fro from Jawala Bajar to Hingoli in a pool car. The submissions of learned Counsel for the Applicant that no such facility is available as the parents of other children are now not interested in continuing the pool car, are not acceptable. On query it was informed that the Applicant is residing at Hingoli. It is to be noted that the distance between Kalamnuri and Hingoli is hardly to 20 kms. and person can travel to and fro. The most important fact taken into

account that the applicant was transferred well within time in the month of June and his transfer was overdue.

7. The applicant is required to prove independently that his order of relieving is itself illegal. There is only one order of transfer of the Applicant dated 10.06.2023 and it is not challenged so it stands as on today. It was neither challenged by the Applicant nor was withdrawn by the State, so it is operative today. Order dated 24.07.2023 issued by the Deputy Director, Health Services, Aurangabad is not to be treated as transfer order, but it is order of posting temporarily given to accommodate the Applicant. Undoubtedly, the Government cannot justify their action of transferring 4 Medical Officers against 3 vacancies as it is a root cause of this chaos. However, it appears that Respondents issued posting order of Respondent No.6 prior to utilizing the services of the Applicant by temporarily posting him by his choice at District Tuberculosis Centre, Hingoli. It is necessary to mention the period of temporary posting in the order so it is convenient to the Government servant to make arrangement of his children and his family. The Applicant was relieved after one month when the Respondent No.6 was transferred.

8. Perused the minutes of the meeting of the Civil Services Board. It shows that the meeting was conducted in July, 2023 itself. After the regular transfers were made request applications were received and file placed before the Hon'ble Chief Minister for approval immediately. Further file was received by the Department on 28.08.2023 and then the order was issued on the next date i.e. 29.08.2023. Thus, considering the present factual scenario, I am of

the view that the relieving order dated 07.09.2023 of the Applicant is illegal and order of transfer of Respondent No.6 also cannot be faulted with.

9. Hence, the following order is passed :

- (a) As I find no merit in the O.A., the same is dismissed.
- (b) Applicant is directed to join at Sub District Hospital, Kalamnuri, Hingoli. It is also made clear that there won't be any difficulty for him in joining at Sub District Hospital, Kalamnuri, Hingoli and getting his salary of the earlier period.

Sd/-

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

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