

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION 87 OF 2017**

**DISTRICT : SOLAPUR**

Shri Dadarao Dattu Sherkhane, )  
Occ : Peon, R/o and at Post Ralera, )  
Tal-Vairag, Barshi, Dist-Solapur. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through the Secretary, )  
Revenue & Forest Department, )  
Mahtralaya, Mumbai 400 032. )
2. The Tahsildar, )  
Establishment Branch-2, )  
Tal-Barshi, Dist-Solapur. )
3. The Sub Divisional Officer, )  
Solapur No. 1, Solapur. )...**Respondents**

Shri R.M Kolge, learned advocate for the Applicant.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.



**CORAM : Shri R.B Malik (Member) (J)**

**DATE : 02.08.2017**

**ORDER**

1. Heard Shri R.M Kolge, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.
2. This Original Application is brought by a Group-D employee calling into question the order dated 29.3.2014, Exh-C, page 14 of the Paper Book, whereby he came to be transferred from Vairag godown to Tahsil office, Barshi.
3. I have perused the record and proceedings. The first Respondent is the State of Maharashtra in Revenue & Forest Department, the second respondent is Tahsildar, Establishment and the third Respondent is Sub Divisional Officer, Solapur.
4. The impugned order in Marathi needs to be reproduced:-

“या आदेशाद्वारे शिपाई कर्मचारी यांचे कामकाजामध्ये बदल करण्यात येत आहे. वैराग गोदम येथील श्री शेरखाने डी डी शिपाई यांनी तहसिल कार्यालयामध्ये कामकाज करावे व तहसिल कार्यालयातील शिपाई श्री शिंदे एस जे यांनी वैराग गोदम येथे शिपाई या



पदावरील कामकाज पहावे संदरचा आदेश हा प्रशासकिय कामंच्या सोईच्या दृष्टीने करण्यात येत असुन आदेश प्राप्त होताच तात्काळ या आदेशाची अंमलबजावणी करण्यात यावी.”

5. Learned Presenting Officer, who made a strenuous attempt to dissuade me from going along with the Applicant, told me that this order does not amount to transfer. According to her only the nature of work has changed. Now one has to bear in mind the fact that the Applicant is a Group-D employee and in this background turning to the definition of the word ‘transfer’ in section 2(i) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of official Duties Act, 2005 (Transfer Act) would mean posting of a Government servant from one post, office or Department to another post, office or Department. Examining in this background, in my opinion, the above extracted order clearly amounts to transfer as the said phrase is required to be understood in the context of Transfer Act.

6. I had an occasion to decide an earlier Original Application brought by the self same Applicant by way of O.A 93/2016 (Shri D.D Sherkhane vs. State of Maharashtra & Ors, dated 12.8.2016). The Applicant was allowed to withdraw from that Original Application with liberty to file fresh one with certain directions to the concerned Respondents to decide his representation



within a stipulated time limit. By an order, which is also in the manner of speaking impugned, the S.D.O, Solapur has inter alia mentioned that in so far as Group-D employees are concerned, they are not given any specific post as such, but their work can be changed from time to time. Now the service condition of transfer is statute regulated and therefore, the individual opinion of any officer would have to be subordinated to the statute and I have already found going by the definition of the word 'transfer' in the Transfer Act, that in the context of the present facts the impugned order dated 29.3.2014 amounts to transfer, and therefore, it is not possible to agree with the S.D.O in so far as his opinion was concerned.

7. Once the above conclusion is reached, then it goes without saying that in accordance with the facts such as they are the other requirement of the Transfer Act enshrined inter alia in Sections 4 & 5 of the Transfer Act have not been complied with and this fact has to be admitted even by the learned Presenting Officer. That being the state of affairs, the impugned order will have to be quashed and set aside and directions will have to be given to repost the Applicant at Vairag Godown, from where he came to be transferred.

8. The orders herein impugned are quashed and set aside. The Respondents are directed to repost the



Applicant within three weeks from today at Vairag Godown and allow him to work there as such. The Original Application, is allowed in these terms with no order as to costs.

Sd/-

**(R.B Malik)**  
**Member (J)**

**Place : Mumbai**

**Date : 02.08.2017**

**Dictation taken by : A.K. Nair.**

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