

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 534 OF 2023

(Subject:- Transfer)

DISTRICT:-AHMEDNAGAR

Tulshiram s/o Honaji Aghav,)
Age – 54 years, Occ.: service as Peon,)
R/o. Baragaonnandur, Tq. Rahuri,)
Dist. Ahmednagar)
E-mail:- taghav@gamil.com)
Mob:- 9822247422) **APPLICANT**

V E R S U S

- 1. State of Maharashtra,**)
Through its Principal Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai - 400032.)
- 2. The Collector,**)
Ahmednagar.)
- 3. The Tahsildar,**)
Tahsil Office, Rahuri,)
Tq. Rahuri, Dist. Ahmednagar.) **RESPONDENTS**

APPEARANCE : Shri Yogesh R. Shinde, learned
counsel for the applicant.
: Shri N.U. Yadav, learned Presenting
Officer for the respondent authority.

CORAM : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

DATE : **20.02.2024.**

ORAL - ORDER

Heard Shri Yogesh R. Shinde, learned counsel for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondent authorities.

2. By filing this Original Application the applicant is seeking quashing and setting aside modified transfer order dated 30.06.2023 issued by the respondent No.2 and relieving order dated 04.07.2023 issued by the respondent authorities.

3. Learned counsel for the applicant submits that the applicant is Group -D employee, who is working as a Peon at Tahsil Office, Rahuri. Though he has not requested for his transfer, by order dated 30.06.2023 he came to be transferred from Tahsil Office, Rahuri to Tahsil Office, Kopergaon.

4. Learned counsel for the applicant submits that after realizing the said mistake, the department has issued transfer order on the same day, thereby mentioning that the applicant came to be transferred on administrative grounds. The modified order dated 30.06.2023 is marked as Annexure 'A-3'.

5. Learned counsel for the applicant submits that the department has neither followed the mandate of G.R. dated 09.04.2018, which prescribes certain guidelines for transfer of the Group -D employees, nor called upon the applicant for counselling at any point of time before his transfer. Learned counsel for the applicant submits that though the applicant has joined the place of transfer, the said order being improper, illegal and incorrect, liable to be quashed and set aside. Thus, the Original Application deserves to be allowed.

6. Learned Presenting Officer for the respondent authorities submits that the applicant is serving at Tahsil Office, Rahuri since last 15 years. Learned P.O. submits that inadvertently in the order dated 30.06.2023 (original order) it has been mentioned as request transfer. In fact, the applicant came to be transferred on administrative exigencies and on the same date, the respondent has issued modified order which is marked as Annexure 'R-1'. Learned P.O. submits that the respondent has rightly followed the provisions of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 and direction given in the G.R. dated

09.04.2018. There is no substance in the Original Application and the same is liable to be dismissed.

7. Undisputedly there is no fixed period of transfer so far as Group 'D' employees are concerned and as such, I find no substance in the submission made on behalf of the respondents that the applicant is serving in Tahsil Office, Rahuri from last 15 years and therefore, he has been transferred. Further, as rightly pointed out by learned counsel for the applicant that in terms of Rule (3) of Sub-Rule (2) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005, Group D employees shall not be transferred out from the station where they are serving except on request when a clear vacancy exists at the station where posting is sought, or on mutual transfer, or when a substantiated complaint of serious nature is received against him.

8. In the instant case though the applicant came to be transferred on administrative grounds, however, there is no specific reply filed on behalf of the respondent stating therein that the applicant came to be transferred on account of substantiated complaint of serious nature received against

him. It further appears that the applicant has not been called upon for counselling at any point of time before his transfer in terms of schedule (2) of G.R. dated 09.04.2018. In view of said schedule No. 2, if a Group D employee is required to be transferred for the reason mentioned in Clause 'A' of schedule (2), thus in terms of Clause 'B' of schedule (2), the counselling is mandatory. Though the applicant has specifically stated in his application by way of ground that he had not called at any point of time for counselling, the respondent authorities have not filed any specific reply in this regard. The respondent authorities have merely stated in the affidavit in reply that the respondents have rightly followed the provisions of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 and directions given in the G.R. dated 09.04.2018.

9. In view of above, in my considered opinion, the transfer of the applicant from Tahsil Office, Rahuri to Tahsil Office, Kopergaon is improper, incorrect, illegal and against the provisions of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 as well as mandate of G.R. dated

09.04.2018. The same is liable to be quashed and set aside.

Hence, the following order.

ORDER

(A) The Original Application is allowed in terms of prayer clauses (B) and (B-1) which are as under:-

“(B) By allowing this Original Application, the impugned order dated 30.06.2023 issued by respondent No.2 may kindly be quashed and set aside.

(B-1) To quash and set aside modified transfer order dated 30.06.2023 bearing Outward No. No.Maha/Astha/ Karya. 5A.2/461/2023 as well as relieving order dated 04.07.2023 issued by the respondent authorities.

(B) In the circumstances, there shall be no order as to costs.

(C) The Original Application is accordingly disposed of in the aforesaid terms.

MEMBER (J)

Place:-Aurangabad

Date : 20.02.2024

SAS O.A. 534/2023(S.B.) Transfer