

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 813 OF 2016

DIST. : DHULE

Avinash s/o Vishnu Gangode,
Age. 38 years, Occu. : Service
(as Chief Officer, Dhondaicha
Varwade Municipal Council),
R/o C/o Quarter, Dondaicha,
Tal. Sindkheda, Dist. Dhule.

-- APPLICANT

V E R S U S

1. The State of Maharashtra,
Through its Secretary,
Urban Development Department,
M.S. Mantralaya, Mumbai – 32.
2. The Collector,
Dhule.
3. Mr. Rohidas Warule,
Additional Tahsildar,
Dondaicha, Tal. Sindkheda,
Dist. Dhule.
4. The State Election Commission,
Maharashtra, Through its
Secretary, New Administrative
Building, Oppo. Mantralaya,
Madam Cama Road, Mumbai.

-- RESPONDENTS

APPEARANCE :- Shri Avinash S. Deshmukh, learned
Advocate for the applicant.

: Shri Milind S. Mahajan, learned Chief
Presenting Officer for the respondents.

CORAM : **Hon'ble Shri B.P. Patil, Member (J)**

DATE : **24th April, 2017**

ORDER

1. The applicant is challenging the order dated 16.10.2016 issued by the respondent no. 1 by which he has been transferred from the post of Chief Officer, Dondaicha Varwade Municipal Council, Dist. Dhule to the post of Chief Officer, Deolali- Pravara Municipal Council, Dist. Ahmednagar on a vacant post by filing the present original application.

2. The applicant belongs to Scheduled Tribe category and possesses a qualification of M.A. D.Ed. He entered the service of the Government of Maharashtra in its Urban Development Department as a Chief Officer, Group – B on 3.8.2010 upon his due selection & recommendation by the Maharashtra Public Service Commission. In July, 2015 he was working as a Assistant Commissioner in the Jalgaon Municipal Corporation. On 29.7.2015 he was transferred as a Chief Officer of the Yaval Municipal Council, Dist. Jalgaon by the res. no. 1 along with other Officers. The said order came to be modified by issuing Corrigendum by the res. no. 1 on the same day i. e. on

29.7.2015 and posting of the applicant has been modified as Chief Officer, Dondaicha Varwade Municipal Council in Dist. Dhule instead of Yaval Municipal Council in Jalgaon District. Accordingly, the applicant joined his new posting as Chief Officer, Dondaicha Varwade Municipal Council in Sindkheda Taluka of Dhule District on 24.8.2015. The applicant has hardly completed tenure of about 14 months on the post of Chief Officer of Dondaicha Varwade Municipal Council and therefore he was not due for transfer from the said post in view of the provisions of 3 (1) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short Transfer Act, 2005).

3. On 23.9.2016 the res. no. 4 has issued letter to all the Commissioners and Collectors in the State regarding appointing of Returning Officers, Assistant Returning Officers and Polling Booth Officers in view of the ensuing elections of Municipal Councils in the State. Pursuant to the said direction, the res. no. 2 has issued order dated 28.9.2016 and appointed the applicant as a Assistant Returning Officer for Dondaicha and Shirpur Municipal Council Elections and the applicant reported the duty as such. The work concerning to ensuing election of Municipal Councils in the State of Maharashtra has already began in

September, 2016 itself and the model code of conduct has been published and introduced by the res. no. 4 on 14.10.2016. In spite of these facts the res. no. 1 issued the order on 16.10.2016 i.e. on Sunday and transferred the present applicant from the post of Chief Officer, Dondaicha Varwade Municipal Council to the post of Chief Officer, Deolali Pravara Municipal Council in Ahmednagar District on a vacant post without obtaining prior approval of the res. no. 4. It has been also mentioned in the said order dated 16.10.2016 that the Officers under transfer were being relieved from the respective posts on 17.10.2016 (before noon). Accordingly, the res. no. 2 had issued order on 17.10.2016 directing the applicant to handover the charge of the post to the res. no. 3. It is the contention of the applicant that the impugned transfer order dated 16.10.2016 is against the provisions of sections 4 (4) and 4 (5) of the Transfer Act, 2005. The impugned order is midterm and mid-tenure transfer order and it has been issued by the res. no. 1 illegally, arbitrarily, high-handedly, irrationally, by exercising colorable powers & illogically and the same has been issued by the res. no. 1 without applying mind. The impugned transfer order has been issued without recording any substantial reasons and without making special case in writing as contemplated U/ss 4 (4) (ii) & 4 (5) of the Transfer Act and it is in violation of the said provisions of the Transfer Act. The

applicant has challenged the said order by filing the present original application and prayed to quash and set aside the impugned order and also prayed to repost him as Chief Officer, Dondaicha Varwade Municipal Council, Dist. Dhule

4. The respondent no. 1 has filed affidavit in reply and refuted the contentions of the applicant. It has denied that the impugned order is in violation of the provisions of sec. 4 (4) & 4 (5) of the Transfer Act and it has been issued arbitrarily and without application of mind and it is against the principles of natural justice. It is the contention of res. no. 1 that though in view of provisions of sec. 4 (1) of the Transfer Act, the Government Officer should not, in general, be transferred before completion of three years tenure, but as per the provisions of sec. 4 (4) and 4 (5) of the Transfer Act, 2005 the Government Officer can be transferred before completion of three years.

5. The res. no. 1 contended that the decision regarding transfer of the applicant from the post of Chief Officer, Dondaicha Varwade Municipal Council in Dist. Dhule is taken on the ground that there was complaint against the applicant and it has also been taken to fill up the vacant post of Chief Officer, Deolali - Pravara Municipal Council, Dist. Ahmednagar. The

decision to transfer the applicant on the post of Chief Officer, Deolali - Pravara Municipal Council, Dist. Ahmednagar was taken by the Government in view of the provisions of the Transfer Act, 2005 after recording reasons and with a prior approval of the competent authority and, therefore, it cannot be said as illegal. The impugned transfer order has been issued in view of the provisions of sec. 4 (4) (ii) of the Transfer Act and, therefore, there is no merit in the original application and hence the same may be dismissed.

6. I have heard Shri Avinash S. Deshmukh, learned Advocate for the applicant and Shri Milind S. Mahajan, learned Chief Presenting Officer for the respondents and also perused the various documents placed on record.

7. The learned Advocate for the applicant has submitted that the applicant was serving as a Chief Officer, Dondaicha Varwade Municipal Council in Sindkheda Taluka of Dhule District w. e. f. 24.8.2015 in view of the transfer order dated 29.7.2015 (paper book page 23 of the O.A.). He has submitted that the applicant has hardly completed 14 months' tenure on the post of Chief Officer, Dondaicha Varwade Municipal Council in Sindkheda Taluka of Dhule District and he was not

due for transfer. He argued that on 29.7.2016 the res. no. 4 issued letters to the Divisional Commissioners and Collectors in the State for appointment of Returning Officers, Assistant Returning Officers and Polling Booth Officers in view of the ensuing elections of Municipal Councils in the State. Accordingly the res. no. 2 has issued order dated 28.9.2016 and appointed the applicant as a Assistant Returning Officer for Dondaicha and Shirpur Municipal Council Elections.

8. The learned Advocate for the applicant has argued that the model code of conduct for said election has been published & introduced by the res. no. 4 on 14.10.2016. In view of the said model code of conduct, no transfers of the Government Officers relating to the work of election shall be permitted and in case it was essential to transfer the Officers, then prior permission of res. no. 4 is mandatory. He argued that in spite of the said fact the res. no. 1 has issued the impugned order dated 16.10.2016 and thereby effected the transfer of the applicant along with other Officers and thereby transferred the applicant from the post of Chief Officer, Dondaicha Varwade Municipal Council in Dist. Dhule to the post of Chief Officer, Deolali - Pravara Municipal Council, Dist. Ahmednagar. He further argued that in the said order it has been mentioned that the Officers under orders of

transfer were being relieved from the present post w.e.f. 17.10.2016 (Before Noon). In view thereof the res. no. 2 has issued order on 17.10.2016 directing the applicant to handover the charge of his post to the res. no. 3.

9. The learned Advocate for the applicant has submitted that the impugned transfer of the applicant from the post of Chief Officer, Dondaicha Varwade Municipal Council, Dist. Dhule to the post of Chief Officer, Deolali - Pravara Municipal Council, Dist. Ahmednagar is against the provisions of section 4 (4) (ii) and 4 (5) of the Transfer Act, 2005. He has submitted that no special circumstances or special reasons were recorded while transferring the applicant from the post of Chief Officer, Dondaicha Varwade Municipal Council, Dist. Dhule to the post of Chief Officer, Deolali - Pravara Municipal Council, Dist. Ahmednagar and, therefore, the impugned order is hitched by the provisions of sec. 4 (4) (ii) and 4(5) of the Transfer Act, 2005.

10. The learned Advocate for the applicant further submitted that the res. no. 1 was not competent to effect the transfer of the Officers who involved in election works in view of the model code of conduct published and introduced by the res. no. 4 on 14.10.2016 on account of ensuing election of Municipal

Councils in the State of Maharashtra. Since the applicant was assigned the election work and was appointed on 28.9.2016 as a Assistant Returning Officer for Dondaicha and Shirpur Municipal Council Elections, the res. no. 1 had no authority to transfer the applicant without taking prior approval of the res. no. 4 for his transfer from the post of Chief Officer, Dondaicha Varwade Municipal Council, Dist. Dhule to the post of Chief Officer, Deolali - Pravara Municipal Council, Dist. Ahmednagar. But the res. no. 1 had not obtained prior approval of the res. no. 4 for the impugned transfer order and, therefore, the impugned transfer order dated 16.10.2016 is illegal. He has further argued that the impugned order is mid tenure and midterm transfer order and, therefore, it is illegal. He has submitted that the respondents have not followed the provisions of sections 4 (4) & 4 (5) of the Transfer Act. He has submitted that the provisions of the Transfer Act, 2005 have been considered by the principal seat of this Tribunal at Mumbai while delivering judgment in **Original Application nos. 376 & 377 of 2007** on 4.10.2007.

11. The learned Advocate for the applicant has also submitted that the impugned order is mala-fide and therefore it is required to be set aside. He has relied on the judgment delivered by the Hon'ble Supreme Court in the case of **Somesh Tiwari VS.**

Union of India & Ors. reported at **2009 AIR (SC) 1399**, wherein it is observed as under :-

“19. Indisputably an order of transfer is an administrative order. There cannot be any doubt whatsoever that transfer, which is ordinarily an incident of service should not be interfered with, save in cases where inter alia mala fide on the part of the authority is proved. Mala fide is of two kinds – one malice in fact and the second malice in law.

20. The order in question would attract the principle of malice in law as it was not based on any factor germane for passing an order of transfer and based on an irrelevant ground i.e. on the allegations made against the appellant in the anonymous complaint. It is one thing to say that the employer is entitled to pass an order of transfer in administrative exigencies but it is another thing to say that the order of transfer is passed by way of or in lieu of punishment. When an order of transfer is passed in lieu of punishment, the same is liable to be set aside being wholly illegal.”

12. The learned Advocate for the applicant has submitted that the impugned order is arbitrary, illegal and therefore he prayed to allow the present original application.

13. The learned Advocate for the applicant has also placed reliance on the judgment in the case of **Purushottam Govindrao Bhagwat Vs. State of Maharashtra & Ors.** reported in **2012 (3) Bom. C.R. 442**, wherein provisions of sec. 4 (4) & 4 (5) of the Transfer Act, 2005 are discussed. In the said decision it has been observed as follows :-

“10] Applying these principles, we will have to consider the provisions of Section 4 of the Act. Sub-section (1) emphatically provides that no Government servant shall ordinarily be transferred unless he has completed his tenure of posting as provided in Section 3. Sub-section (2) requires a competent authority to prepare every year in the month of January, a list of Government servants due for transfer, in the month of April and May in the year. Sub-section (3) requires that the transfer list prepared by the respective competent authority under sub-section (2) for Group A Officers specified in entries (a) and (b) of the table under section 6 shall be finalized by the Chief Minister or the concerned Minister, as the case may be, in consultation with the Chief Secretary or concerned Secretary of the Department, as the case may be. Proviso thereto requires that any dispute in the matter of such transfers shall be decided by the Chief Minister in consultation with the Chief Secretary. Sub-section (4) mandates that the transfers of Government servants shall ordinarily be made only once in a year in the

month of April or May. Proviso to Sub-section (4) permits a transfer to be made any time in the year in the circumstances stated therein. Sub-clause (i) thereof permits such a transfer to be made at any time in a year to a newly created posts or to the posts which become vacant due to retirement, promotion, resignation, reversion, reinstatement, consequential vacancy on account of transfer or on return from leave. Sub-clause(ii) thereof permits such a transfer at any time where the competent authority is satisfied that the transfer is essential due to exceptional circumstances or special reasons, after recording the same in writing and with the prior approval of the next higher authority. Sub-section (5) of Section 4, which begins with a *non obstante* clause, permits the competent authority, in special cases, after recording reasons in writing and with the prior approval of the immediately superior Transferring Authority mentioned in the table of section 6, to transfer a Government servant before completion of his tenure of post. Thus, the distinction between the two Provisos to Sub-section (4) and Sub section (5) is crystal clear. A transfer due to vacancy of the post is covered by Clause (i) to Proviso of Sub-section (4) while mid-tenure transfer is covered by Sub-section (5). It is thus clear that merely to fill a vacancy, a Government cannot be transferred mid-tenure unless and until the conditions of Sub-section (5) are satisfied. We are unable to accept the contention of Shri A.S. Deshpande, the learned counsel for the respondent no.3, that the proviso to Sub-section (4) would permit a transfer at

any time, without recording reasons, to the post which become vacant due to retirement, promotion, resignation, reversion, reinstatement, consequential vacancy on account of transfer or on return from leave and that the proviso would govern the substantive provision. The function of the proviso has been defined by the Apex Court in the recent judgment of (**Nagar Palika Nigam V/s Krishi Upaj Mandi Samiti & others**) **3, AIR 2009 Supreme Court, 187**. The Apex Court observed thus:

“8. The normal function of a proviso is to except something out of the enactment or to qualify something enacted therein which but for the proviso would be within the purview of the enactment. As was stated in (Mullins V. Treasurer of Survey)⁴, 1880 (5) QBD 170, referred to in (Shah Bhojraj Kuverji Oil Mills and Ginning Factory v. Subhash Chandra Yograj Sinha)⁵, AIR 1961 SC 1596 ; and (Calcutta Tramways Co. Ltd. v. Corporation of Calcutta)⁶, AIR 1965 SC 1728; when one finds a proviso to a section the natural presumption is that, but for the proviso, the enacting part of the section would have included the subject-matter of the proviso. The proper function of a proviso is to except and to deal with a case which would otherwise fall within the general language of the main enactment and its effect is confined to that case. It is a qualification of the preceding enactment which is expressed in terms too general to be quite accurate. As a general rule, a proviso is added to an enactment to qualify or create an

exception to what is in the enactment and ordinarily, a proviso is not interpreted as stating a general rule. If the language of the enacting part of the statute does not contain the provisions which are said to occur in it you cannot derive these provisions by implication from a proviso. Said Lord Watson in (*West Derby Union v. Metropolitan Life Assurance Co.*)⁷, 1897 A.C. 647 (HL). Normally, a proviso does not travel beyond the provision to which it is a proviso. It carves out an exception to the main provision to which it has been enacted as a proviso and to no other. See (*A.N. Sehgal and Ors. v. Raje Ram Sheoram and Ors.*)⁸, AIR 1991 SC 1406. (*Tribhovandas Haribhai Tamboli v. Gujarat Revenue Tribunal and Ors.*)⁹, AIR 1991 SC 1538 and (*Kerala State Housing Board and Ors. v. Ramapriya Hotels (P) Ltd. and Ors.*)¹⁰, 1994 (5) SCC 672.

9. “This word (proviso) hath divers operations. Sometime it worketh a qualification or limitation; sometime a condition; and sometime a covenant” (Coke upon Littleton 18th Edition, 146).”

He has further attracted my attention to the following observations made in the said judgment :-

“13] It can clearly be seen that the said enactment, particularly Sub-section (1) of Section 4 specifically protects a Government servant from being transferred prior to completion of his ordinary tenure. Sub-section

(4) of Section 4 requires such transfers to be done once in a year i.e. in the month of April or May. The proviso thereto, though permits the transfers to be made any time in the year for the eventualities mentioned therein, however, we are of the considered view that the proviso to Sub-section (4) cannot be read in such a manner, which makes the provision of Sub-section (1) of Section 4 redundant or nugatory. Clause (i) of the proviso to Sub-section (4), which permits transfer to be made at any time in a year on the ground of eventualities mentioned therein, will have to be read in a manner that the transfer on the grounds mentioned in clause (i) of proviso to Sub-section (4) would be permissible at any time of the year and not necessarily in April or May when a Government servant has completed his tenure of posting. If it is not read in that manner, the very purpose of the protection, which is granted in Sub-section (1) of Section 4 would become redundant and nugatory. A person, who has not completed even three months in a particular posting, could be transferred to some post, which has become vacant on account of transfer of another Government servant, who was working on the post. As such, the clause (i) of proviso to Subsection (4) will have to be read in harmony with Sub-section (1) of Section 4 of the said Act. It will have to be interpreted that a Government servant will not be ordinarily transferred prior to completion of his tenure, and the transfers will have to be made only in the month of April or May. However, if transfer is necessitated on account of any of eventualities stated in

clause (i) to proviso of Sub-section (4), it can be made at any time of the year and not necessarily in April or May, however, only on completion of tenure of the Government servant. No doubt, that clause (ii) of proviso to Sub-section (4) would permit transfer to be made at any time of the year and not necessarily in April or May, where the competent authority is satisfied that the transfer is essential due to exceptional circumstances or special reasons. However, when this is being done, the reasons and the circumstances will have to be recorded in writing and the same cannot be done without prior approval of the next higher authority. Undisputedly, Sub-section (5) of Section 4 carves out an exception to the general protection granted in Sub-section (1) of Section 4. No doubt, by taking recourse to Sub-section (5), a Government servant can be transferred even prior to completion of his tenure and even at any time of the year and not necessarily in the month of April or May, in special cases. However, while doing so, the competent authority will be required to record the reasons in writing and would also be required to obtain prior approval of the immediately superior Transferring Authority as mentioned in the table of Section 6. As already discussed, the provision of Sub-section (5) of Section 4 carves out an exception to the protection granted in favour of an employee in Sub-section (1) of the said section. It is to be noted that for that reason, the legislature has made an inbuilt safeguard in Sub-section (5) by requiring the reasons to be recorded for

making transfer as a special case and obtaining approval of the immediately superior Transferring Authority. It is, thus, clear that the legislative intent is clear that ordinarily an employee should not be transferred prior to completion of his tenure. However, this would be permissible in special cases when the competent authority records the reasons for the same and obtains prior approval of the immediately superior Transferring Authority.”

14. The learned Chief Presenting Officer has submitted that the impugned order has been issued by the competent authority in view of provisions of sec. 4 (4) (i) of the Transfer Act, 2005. He has further submitted that there were complaints against the applicant as regards his working and, therefore, decision has been taken by the State Government to transfer the applicant from the post of Chief Officer, Dondaicha Varwade Municipal Council, Dist. Dhule to the post of Chief Officer, Deolali - Pravara Municipal Council, Dist. Ahmednagar to fill up the vacant post as well as in view of the ensuing election of Deolali - Pravara Municipal Council. He has submitted that the proposal has been sent under the provisions of sec. 4 (4) & 4 (5) of the Transfer Act, 2005 and it has been approved by the next higher authority and thereafter the impugned order has been issued. He submitted that, there is no irregularity in issuing the

impugned order under challenge. He has submitted that the representatives i. e. Municipal Councilors and Hon'ble Minister made complaints about working of the applicant and his partial behavior, which was affecting the public interest & public health and, therefore, the competent authority has recommended for transfer of the applicant, which has been approved by the Hon'ble Chief Minister. He submitted that there is no illegality in the order under challenge.

15. The learned C.P.O. further submitted that the transfer of the applicant has been made before the introduction of the model code of conduct and before declaration of the election programme of the Municipal Councils. He has attracted my attention towards the letter dated 17.10.2016 issued by the State Election Commission along with Annex. 'A' regarding declaration of the election programme of the Municipal Council in the State, which shows that by the said letter the Election Commission directed to all the Collectors of the State to declare the election programme on 19.10.2016. He has further submitted that as the election programme was declared on 19.10.2016, the model code of conduct had come into force from that day. The impugned order is dated 16.10.2016 i. e. much prior to the declaration of election & introduction of the model code of conduct and,

therefore, no prior approval of the Election Commission for transfer of the applicant and others was required.

16. The learned C.P.O. has submitted that the impugned order dated 16.10.2016 has been implemented and the applicant was relieved on 17.10.2016 (before noon) and, therefore, there is no question of violation of model code of conduct. He has further submitted that the impugned order has been issued in view of the provisions of Sec. 4 (4) & 4 (5) of the Transfer Act, 2005 and there is no violation of any provisions of the Transfer Act and, therefore, the present original application is liable to be rejected.

17. As regards the first contention of the applicant that the impugned order is issued in violation of model code of conduct introduced by the State Election Commission, it is to be noted that the letter dated 17.10.2016 issued by the State Election Commission shows that it has directed all the Collectors of the State to implement the election programme as mentioned in Annex. A, which shows that the Collectors had to declare the election programme, from 19.10.2016. The model code of conduct will come into force on declaration of the election and, therefore, the impugned transfer order of the applicant is not in violation of the model code of conduct. As the impugned order was issued

prior to declaration of the election programme, approval of the Election Commission was not required to it and, therefore, I do not find any substance in the argument of the learned Advocate for the applicant in that regard.

18. The main grievance of the applicant is that he had been transferred before completion of his tenure in violation of the provisions of sec. 4 (4) & 4 (5) of the Transfer Act, 2005 and no special reasons had been recorded by the competent authority while transferring him. In this regard the respondents have produced on record the proposal of the Government regarding transfer of the Chief Officers, which shows that the proposal for transfer of the applicant has been moved on the basis of complaints received against the applicant. The complaints of the citizens of Dondaicha Varwade Municipal Council, Dist. Dhule dated 1.8.2015 shows that several Municipal Councilors and citizens of the Dondaicha filed complaints against the applicant because of applicant's non action and as the health of the citizens was in danger. Not only this, but the Hon'ble Minister of Employment Guarantee Scheme & Tourism has also sent a letter to the Hon'ble Chief Minister for transfer of the applicant from the post of Chief Officer, Dondaicha Varwade Municipal Council, Dist. Dhule on the ground that there were serious complaints against

the applicant and he was failed to provide primary essential facilities like providing clean drinking water to the citizens, maintenance of the roads to the citizens and, therefore, Hon'ble Minister requested for transfer of the applicant. The said complaint has been taken into consideration while making the proposal of the applicant's transfer and thereafter the competent authority proposed transfer of the applicant and placed it before the Hon'ble Chief Minister for his approval. Hon'ble Chief Minister approved the said proposal and thereafter the impugned order dated 16.10.2016 has been issued by the res. no. 1.

19. The applicant has been transferred from the post of Chief Officer, Dondaicha Varwade Municipal Council, Dist. Dhule to fill up the vacant post of Chief Officer at Deolai- Pravara Municipal Council, Dist. Ahmednagar in view of ensuing Municipal Council election. Clause (ii) of sub sec. 4 of sec. 4 of the Transfer Act permits the transfer to be made at any time of the year, where the competent authority is satisfied that the transfer is essential due to exceptional circumstances or special reasons. Sub sec. 5 of sec. 4 of the Transfer Act provides that the competent authority in special cases after recording reasons in writing and with the prior approval of the immediate superior transferring authority, as provided U/s 6, transfer a Government

servant before completion of his tenure of post. In the instant case, the respondent no. 1 has transferred the applicant before completion of his tenure by recording reasons in writing and by obtaining approval of immediate superior transferring authority and, therefore, it is crystal clear that the transfer of the applicant is in accordance with the provisions of sec. 4 (4) & 4 (5) of the Transfer Act, 2005. A special case has been made out by the respondents while issuing transfer order of the applicant and not only this but the said special reasons and exceptional circumstances were also recorded by the respondents in writing before issuing the impugned transfer order and, therefore, the impugned order cannot be said to be illegal or in contravention of sec. 4 (4) & 4 (5) of the Transfer Act. Therefore, I do not find substance in the submissions of the learned Advocate for the applicant in that regard.

20. The applicant has failed to establish that the impugned order is the outcome of mala-fide or colorable exercise of powers and it has been passed at the behest of others and it is also in violation of the statutory provisions. Therefore, the same cannot be said to be illegal and in contravention of the statutory provisions. Since the impugned transfer order is issued in accordance with the provisions of sec. 4 (4) & 4 (5) of the Transfer

Act and it was issued in the larger public interest, no interference is required in the impugned order. Therefore, I do not find merit in the original application. Consequently it must fail. Hence, I proceed to pass the following order :-

ORDER

The original application is dismissed with no order as to costs.

MEMBER (J)