

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 934 OF 2016**

**DISTRICT: - BEED.**

Amol S/o. Vitthal Mane  
Age: 39 years, Occ. Service,  
R/o: Wadvani, Tq. Wadvani,  
District Beed.

**.. APPLICANT.**

**V E R S U S**

1) The State of Maharashtra  
Through the Secretary,  
Co-operation, Marketing and  
Textile Department,  
Mantralaya, Mumbai-32.

2) The Commissioner for Co-operation  
And Registrar, Co-operative Societies,  
M.S. Pune.

**.. RESPONDENTS.**

---

**APPEARANCE :** Shri K.J. Suryawanshi – learned  
Advocate for the applicant.

: Shri M.P. Gude – learned Presenting  
Officer for the respondents.

---

**CORAM :** **HON'BLE SHRI B.P. PATIL,**  
**MEMBER (J)**

**DATE :** **24<sup>TH</sup> JULY, 2017.**

---

## **ORDER**

1. By filing the present Original Application the applicant is claiming modification in the transfer order dated 16.5.2016 by giving him any other suitable and equivalent posting in Ahmednagar District or adjacent place to Ahmednagar and also prayed to issue directions to the respondents to consider his representation dated 24.11.2016 in that regard.

2. The applicant was appointed on the post of Grade-I in Co-operative Department in the year 2003 and he was posted in the office of Assistant Registrar, Co-operative Societies, Shevgaon, District Ahmednagar. Thereafter, he was transferred from Shevgaon Taluka to Ahmednagar on the post of Office Superintendent. Then he was promoted as Assistant Registrar, Co-operative Societies in the year 2008 and posted at Bhadgaon Taluka District Jalgaon. Thereafter, he was transferred to Pathardi, District Ahmednagar and then he was transferred to Karjat District Ahmednagar from Pathardi. It is his contention that his parents are residing at Ahmednagar and they are

...3

under medical treatment at Ahmednagar and Pune. At the time of general transfer of the year 2016 the applicant has given option for his transfer at Maharashtra State, Co-operative Housing Finance Corporation, Ahmednagar [Parseva], at Housing Finance Corporation, Ahmednagar, Tq. Shevgaon and Taluka Parner, District Ahmednagar. He had given options for three places for transfer, but the respondents had not considered his request for general transfer in the year 2016. The respondents transferred the applicant from Karjat to Wadvani District Beed as Assistant Registrar, Co-operative Societies by the impugned order dated 16.5.2016.

3. After transfer the applicant had gone to Karjat District Ahmednagar to take his personal belongings and material from the office of A.R.C.S. Karjat on 9.6.2016. While returning back from Karjat to Ahmednagar some persons assaulted the applicant and, therefore, he suffered serious injuries including fracture of right Tibia. He was admitted in Asian Noble Hospital, Ahmednagar on 9.6.2016 and he was discharged from Hospital on

18.6.2016. Due to fracture caused to him he was unable to stand and walk properly. A crime has been registered against the assaulted persons. It is his further contention that his father had undergone heart surgery and his old mother is suffering from Psychological disease. He is their only son and he has to take care of his aged parents. Therefore, he had made representations dated 17.2.2016, 19.5.2016, 26.5.2016 and 11.7.2016 to the respondent No. 2 mentioning all these facts and his family problems and requested to give him posting in Ahmednagar District or adjacent to Ahmednagar, instead of Beed District, but the respondent No. 2 had not considered his request. It is his contention that the respondent No. 2 has considered the request of other employees considering their family difficulties and issued fresh transfer orders accordingly. It is his further contention that on 4.11.2016 he filed representation to the respondent No. 2 making grievance about the irregularities in the impugned transfer order dated 16.5.2016. It's copy was sent to the Hon'ble Chief Minister, but the said representation was not decided by

the respondent No. 2. He collected the documents/information about the transfer under Right to Information Act, on 7.9.2016 and thereafter again made one more representation dated 24.11.2016 to the respondent No. 1 requesting to transfer him from Wadvani District Beed to any place in Ahmednagar District or Pune District, on the vacant post, but the said representation has not been considered by the respondents. Therefore, he approached to this Tribunal by filing the present Original Application and prayed to direct the respondents to modify the transfer order dated 16.5.2016 by giving any suitable or equivalent posting in Ahmednagar District or adjacent place and to direct them to consider his representation dated 24.11.2016.

4. Respondent Nos. 1 & 2 filed their affidavit in reply resisting contention of the applicant. It is their contention that the applicant has been posted twice in the Ahmednagar District i.e. Pathardi Taluka and Karjat Taluka and he has been transferred as he had completed his tenure and was due for transfer. According to his

request he has been transferred to Wadawani Taluka, District Beed from Karjat Taluka, which is adjacent to Ahmednagar District. It is their contention that the applicant is a Gazetted Officer and he has to work at the place, where he has been transferred. He cannot claim that he should be posted at a particular place or at a particular post. It is their contention that the applicant's representation has been rejected by the respondents. It is their contention that the transfer of the applicant has been made in view of the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay In Discharge of Official Duties Act, 2005 (In short 'the Transfer Act of 2005) and there is no illegality in impugned order. It is their contention that the applicant has been relieved from his present posting, but he had not joined his new posting. Therefore, the respondent No. 2 has issued memo dated 16.8.2016 directing the applicant to join his new posting immediately, but he had not joined. Therefore, show

cause notice dated 22.8.2016 had been issued with a direction to the applicant to join his duties at Wadvani, but the applicant failed to comply with the said notice.

5. It is the contention of the respondent Nos. 1 & 2 that the applicant is claiming that the distance between Wadavani from Ahmednagar is 150 km, but at the same time he is claiming posting at Baramati Tq. and Pune District, the distance of which is more than 150 K.M. from Ahmednagar. It is their contention that the said fact falsifies contention of the applicant. It is their contention that the case of the applicant cannot be equated with other employees, whose request has been considered and their transfer orders have been modified for the administrative reason considering their request. It is their contention that the applicant made several representations to the respondents. The respondents rejected his representations and informed the applicant about rejection of his representation. But thereafter, also he started filing the applications making false allegation against his higher authorities, which amounts

misconduct. Considering the said conduct of the applicant the present Original Application deserves to be rejected. Therefore, they have prayed to dismiss the present Original Application.

6. I have heard Shri K.J. Suryawanshi – learned Advocate for the applicant and Shri M.P. Gude – learned Presenting Officer for the respondents. I have perused the affidavit, affidavit in reply filed by the respondents. I have also perused the documents placed on record by the respective parties.

7. Learned Advocate for the applicant has submitted that the applicant has been transferred to Karjat Taluka in the year 2013 and he joined the duties on 14.6.2013. He had not completed three years tenure on the present post. He was not due for transfer in the year 2016, but the respondents treated him due for transfer and, therefore, he filed option for giving transfer on 29.4.2016. He has given three places of his choice in the Ahmednagar District, but the said options given by the applicant had



not been considered by the respondents while issuing the impugned transfer order and he has been transferred to Wadvani Taluka Beed. He has submitted that the applicant made representation dated 16.5.2016 along with his option form submitted, which is at page 12, mentioning his family difficulties and ill-health of his parents, but the said fact has not been considered by the respondent No. 2. He has submitted that the impugned order is not legal in view of the provisions of Section 4 of the Transfer Act of 2005.

8. Learned Advocate for the applicant has further submitted that in the month of June, 2016, some unknown persons assaulted the applicant and, therefore, he suffered serious injuries including fracture to his right Tibia. Hence, he was hospitalized for 8 days', but his injury has not been cured completely. He could not walk and stand properly. Therefore, he made several representations to the respondents to modify the impugned order and to give him posting in Ahmednagar

District or in Pune District or adjoining places to Ahmednagar District, where posts are vacant. He has submitted that the respondents have not considered his request. He has argued that one office note has been placed before the respondent No. 2 for considering his request and giving him posting in adjoining District i.e. Pune. The said noting has been approved by the respondent No. 2 initially, but it had been specifically scored by the respondent no. 2 and he rejected his request. He has submitted that the respondent No. 2 has intentionally rejected his representation and kept the subsequent representation dated 24.11.2016 pending and, therefore, he prayed to issue direction to the respondent No. 2 to decide the representation on its merit.

9. Learned Advocate for the applicant has further submitted that the respondent No. 2 has considered the request of other employees, but purposely rejected the request of the applicant. He had argued that the applicant has genuine difficulty and therefore, it is just to

modify the impugned order with a direction to the respondent No. 2 to give the applicant posting in the Ahmednagar District or in the adjoining District.

10. Learned Presenting Officer has submitted that the applicant is a Gazetted Class-I Officer. He has completed his normal tenure of posting in the Ahmednagar District and Karjat. He was due for transfer and, therefore, option regarding choice of places for transfer has been called from him. Accordingly, the applicant sent application (page-12) and gave three options of places in Ahmednagar District for transfer. He has submitted that since the applicant has completed three years tenure in Ahmednagar district, he has been transferred out of Ahmednagar District in general transfer on administrative ground and he has been posted in Beed District, which is adjoining district to Ahmednagar. He has submitted that the applicant has been relieved accordingly on 20.5.2016 (page-15), but he has not joined his new posting and remained absent. Thereafter, alleged incident of assault

....12

on the applicant took place, which has no concern with the impugned transfer order. He has submitted that the request of the applicant has not been considered by the respondent No. 2 and he was directed to join his new posting immediately, but the applicant avoided to join his new posting and he started making representations with the respondents on one and another ground. The language in the representation shows that he has no respect and regard towards his higher authorities and he disobeyed their orders, therefore, memo dated 16.8.2016 has been issued to him with the direction to join the new posting immediately, but he had not joined new posting. Therefore, show cause notice dated 22.8.2016 had been issued with a direction to the applicant to join his duties at Wadvani, but the applicant failed to comply with the said notice. The said conduct of the applicant invites disciplinary action against him. It is their contention that the applicant has mostly served in Ahmednagar District since his appointment and, therefore, he cannot be reposted in Ahmednagar District again.

11. Learned Presenting Officer has further submitted that the distance between Ahmednagar and Wadavani is about 150 K.M. The applicant has been transferred in adjoining district of Ahmednagar. The applicant is avoiding to join the posting at Wadavani on the ground that the distance is long, but he is ready to accept posting at Baramati and in Pune District, which is more than 150 K.M. He has submitted that very fact shows that there is no merit in the contention of the applicant and, therefore, he prayed to reject the application.

12. On perusal of the documents on record, it reveals that the applicant joined the Co-operative Department on the post of Grade-I in the year 2003. He was posted in the office of Assistant Registrar District Ahmednagar. Thereafter, he was transferred from Shevgaon Taluka to Ahmednagar on the post of Office Superintendent. Thereafter, he was promoted as Assistant Registrar, Co-operative Societies in the year 2008 and posted at Bhadgaon Taluka District Jalgaon. The document at page

12 of the paper book of the O.A., filed by the applicant shows that thereafter, on 7.8.2009 the applicant was transferred as Assistant Registrar, Co-operative Societies Taluka Pathardi, District Ahmednagar and he joined there on 7.8.2009. He worked there up to 6.7.2013 and thereafter he has been transferred as Assistant Registrar, Co-operative Societies Taluka Karjat, District Ahmednagar and he joined the duty on 14.7.2013. It means since beginning i.e. from inception in the service the applicant is serving in Ahmednagar District except for one year when he was transferred to Bhadgaon Taluka District Jalgaon, on promotion in the year 2008. He worked outside Ahmednagar District for one year during the year 2008-09 only. The applicant is working as Assistant Registrar, Co-operative Societies in Ahmednagar District since 7.8.2009. It means he worked for about 7 years in Ahmednagar District on the present post i.e. on the post of Assistant Registrar prior to the impugned order. It means he has completed normal tenure of posting, but the applicant has suppressed all these facts. As the applicant has completed

near about 7 years in Ahmednagar District, he was due for transfer in the general transfer of the year 2016. When the option of the places where to be transferred has been called, the applicant had given his choice for three places in Ahmednagar District. He had not given choice for any place outside Ahmednagar district. On considering his request to post him in adjoining districts of the Ahmednagar District, he has been transferred by the impugned order and posted at Wadvani of District Beed. There is no illegality in the impugned transfer order.

13. The applicant is seeking modification in the order and prayed to direct the respondents to post him in any place in Ahmednagar District or in adjoining District i.e. in Pune District on the ground that the distance between Wadavani and Ahmednagar is 150 km. The respondents had not considered his representation and rejected his request on administrative ground. The applicant cannot claim as of right that he should be posted at a particular place adjoining to his home district. He is Grade-I Officer

and, therefore, it is not expected from him that place of his choice should be given to him in the transfer. The respondent No. 2 has considered the request of the applicant on the ground of his family problem and posted him at Wadvani, which is in adjoining District to Ahmednagar District. Therefore, in my opinion, there is no just ground to consider the request of the applicant to direct the respondent No. 2 to modify the impugned order and to post him either in Ahmednagar District or in the adjoining district or at nearby place.

14. It is also material to note here that the applicant has been relieved on 20.5.2016 after passing the impugned order. Instead of joining new posting, he avoided to join the said post. He chose to make representation to the respondents making false allegation against his higher authorities without filing any supporting documents. He was served with memo as well as show cause notice by the respondent No. 2, but he had not given his explanation and disobeyed the orders of the superiors. The conduct of



the applicant amounts misconduct. If the applicant has any grievance against the impugned order, he has every right to challenge the said order before competent authority or raise his grievance before the higher authorities by joining the new posting. But instead of joining new posting, he preferred not to join the duty at new posting. In these circumstances, in my opinion, the request of the applicant cannot be considered. There is no illegality in the impugned order. Moreover, there is no justification for modification the impugned order as there is no just reason to consider the request of the applicant. Therefore, in my opinion, there is no merit in the present Original Application. Consequently, it deserves to be dismissed.

15. In view of the above discussion, the present Original Application stands dismissed with no order as to costs.

**MEMBER (J)**