

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.1001 OF 2022

DISTRICT : DHULE

Dr. Kanchan Narayan Wanere,
Age : 55 years, Occu. : Service as
District Civil Surgeon,
Civil Hospital Dhule, Dist. Dhule.
R/o. Shivneri Bunglow,
Behind S.T. Bus Stand,
Dhule, Tq & Dist. Dhule.

...APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through its Principal Secretary,
Public Health Department,
G.T. Hospital Building, 10th Floor,
A Wing, Mantralaya, Mumbai-400 001.
- 2) The Director of Health Services,
Arogya Bhawan, Saint Georges Hospital Campus,
Opp. C.S.T., Fort, Mumbai.
- 3) The Deputy Director of Health Services,
Nashik Circle, Nashik, Shalimar, Nashik,
District Nashik – 422 001.
- 4) Dr. Mahadeo Chinchole,
Age : Major, Occ : Service as
Medical Superintendent,
Sub District Hospital, Georai,
Tq. Georai, Dist. Beed.

...RESPONDENTS

APPEARANCE : Shri V.B.Wagh, Counsel for Applicant.
: Shri I.S.Thorat, Presenting Officer for the
Respondent nos.1 to 3.
: Shri A.S.Deshmukh, Counsel for
respondent no.4.

CORAM : JUSTICE P.R.BORA, VICE CHAIRMAN.

DECIDED ON : 28.11.2022.

ORAL ORDER:

1. Heard Shri V.B.Wagh, learned Advocate for the applicant, Shri I.S.Thorat, learned Presenting Officer representing respondent nos.1 to 3 and Shri A.S.Deshmukh, learned Counsel appearing for respondent no.4.

2. Applicant is presently working as District Civil Surgeon at the District Hospital, Dhule. As contended in the O.A., the applicant resumed the charge at Dhule prior to about 9 months. Vide order passed on 11-11-2022 by the Health Department of the State, the applicant has been transferred from Dhule to Mumbai on the post of Deputy Director, Health Services (Monitoring & Evaluation), Mumbai by downgrading the pay scale. It is the contention of the applicant that on the next day of the issuance of the aforesaid order, Hon'ble Health Minister of the State stayed the said order until further orders. It is the further contention of the applicant that inspite of the fact that the transfer orders were subsequently stayed by the Hon'ble Health Minister, respondent no.4 was directed to take charge of the post of Civil Surgeon, Dhule on which the applicant was discharging her duties. In the circumstances, the

applicant has approached this Tribunal. It is the contention of the applicant that without giving any reason, applicant has been transferred in mid-term from her existing post. In view of the order of the Health Minister on record, this Tribunal had passed an interim order on 15-11-2022 thereby directing the respondents to continue the applicant on the post of Civil Surgeon at Dhule.

3. In response to the notice served upon the respondents, all the respondents have caused appearance in the matter and have filed their affidavits in reply. Respondent nos.1 to 3 have filed a short affidavit in reply which is sworn by Dr. Mahananda Munde, Deputy Director of Health Services, Aurangabad Region, Aurangabad. Respondent no.4 has also filed his affidavit in reply on 18-11-2022. Today, the matter has been finally heard. During the course of the hearing which took place on the previous dates, certain documents have been filed on record by the parties which contain relevant copies of the noting of the Health Department pertaining to the subject matter.

4. Shri V.B.Wagh, learned Counsel appearing for the applicant submitted that the impugned order of transfer whereby the applicant has been transferred from her existing post to the post of Deputy Director, Health Services (Monitoring

& Evaluation) at Mumbai, is in violation of the statutory provisions under the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 ("Transfer Act" for short). Learned Counsel submitted that the applicant was posted at Dhule just before 9 months. Her normal tenure as prescribed under the provisions of Transfer Act is 3 years. Learned Counsel submitted that there was no apparent reason for transferring the applicant from Dhule. Learned Counsel referred to the provisions under Section 3 as well Section 4 of the Transfer Act to buttress his contentions. Learned Counsel submitted that though there are provisions for making mid-term transfers, such transfers can be made only in few circumstances as provided under Section 4(4)(ii) and Section 5 of the Transfer Act. Referring to those provisions the learned Counsel submitted that the impugned order has been passed in complete violation of said provisions.

5. Learned Counsel further submitted that in the short affidavit in reply filed on behalf of the respondents, there is no specific reply to many of the contentions raised by the applicant in her application. Learned Counsel submitted that the person who is at Sr.No.294 in the seniority list has been transferred on place of the applicant who is at Sr.No.49 in the said list.

Learned Counsel further submitted that though in the impugned order it has been mentioned that the appointment and promotions to the post of Deputy Director are made taking into account the seniority of the candidates, the order contains the name of one Dr. Kapil Patil who is junior-most. It is further contended that the applicant has been transferred at the behest of respondent no.4 and none has been posted in his place and the said post is still vacant. It is further contended that without consulting the Civil Services Board, which is the only competent body in the matter of transfers and mid-term transfers of the Government employees, the impugned order has been passed.

6. It is further contended that, ordinarily, the list is prepared of the officers to be transferred as provided under Sections 4(2) of the Transfer Act and such list is finalized by the Chief Minister or the concerned Minister in consultation with the Chief Secretary or concerned Secretary of the Department, as the case may be. The learned Counsel alleged that without following the procedure as prescribed, the impugned order has been passed. The applicant has also alleged that respondent no.4 attempted to unilaterally take charge of the post of Civil Surgeon at Dhule.

7. Learned Counsel for the applicant has placed reliance on the following judgments:

“[i] Kishor Shridharrao Mhaske V/s. Maharashtra OBC Finance and Development Corporation, Mumbai & Ors. [2013 (3) Mh.LJ 463].

[ii] Shriprakash Maruti Waghmare V/s. The State of Maharashtra & Ors. [Writ Petition No.5652/2009 decided on 16-10-2009].

[iii] Seshrao Nagorao Umap V/s. The State of Maharashtra & Ors. [1985 (1) BomCR 30].

[iv] Ramakant Baburao Kendre V/s. The State of Maharashtra & Ors. [Writ Petition No.8177/2011 decided on 18-10-2011].”

8. The learned Counsel submitted that the facts involved in the present case are identical with the facts which were existing in the cited cases. Learned Counsel pointed out that in all these judgments the Hon'ble High Court has held that the transfers made in violation of the statutory rules are impermissible and the said orders are set aside.

Learned Counsel invited my attention to paragraph 7 of the judgment passed by Hon'ble Bombay High Court in the case of **Kishor Mhaske**, *cited supra*. I deem it appropriate to reproduce said paragraph 7, which reads thus:

“7. We are satisfied in the case in hand that there was non-observance of the statutory requirements of the Act. The mid-term or premature special transfer has to be strictly according to law, by a reasoned order in writing and after the due and prior approval from the competent transferring authority concerned for effecting such special transfer under the Act. The exercise of exceptional statutory power has to be transparent, reasonable and rational to serve objectives of the Act, as far as possible, in public interest. Mandatory requirements of the provision under Section 4(5) of the Act cannot be ignored or bye-passed. The exceptional reasons for the special mid-term or premature transfer ought to have been stated in writing. Vague, hazy and meager expression such as “on administrative ground” cannot be a compliance to be considered apt and judicious enough in the face of mandatory statutory requirements. The impugned order of the transfer in the absence of mention of special and exceptional reasons was passed obviously in breach of the statutory obligations and suffers from the vices as above. Impugned order dated 30-05 2012 would ex facie indicate that merely because of request made by the respondent no 3 Shri Murar, the Petitioner was sought to be transferred prematurely to Raigad. It is therefore unsustainable for want of evenhandedness or fairness to the Petitioner Government employee concerned and

we therefore quash and set aside the impugned order of transfer. This order will not preclude the respondent no.1 passing a fresh reasoned order in writing, of course as prescribed under the Act after prior approval order is obtained from the competent transferring authority and by following the mandatory requirements as prescribed under the Act. The Petition is allowed in above terms. Hence, order :-

Rule is made absolute accordingly. Cost of this Petition quantified at Rs.7500/- shall be paid by the respondent no. 1, to the Petitioner.”

9. Learned Counsel also brought to my notice the observations made and findings recorded in the other cited judgments. The view taken in the said judgments since is as expressed in the case of Kishor Mhaske, *cited supra*, I do not find it necessary to reiterate the observations made therein.

10. Learned P.O. Shri I.S.Thorat reiterated the contentions raised in the affidavit in reply filed on behalf of the respondents. Learned P.O. pointed out that the reasons which necessitated the transfer of the applicant as well as 16 others are recorded in the noting which are placed on record by the respondents. Learned P.O. submitted that while passing the impugned order as well as another order of the same date, due deliberations were made at the level of officers and the Civil Services Board

was also duly consulted. Learned P.O. submitted that, proposal which was prepared in this regard after those deliberations, has been approved by the Hon'ble Chief Minister and thereafter the impugned order has been issued. Learned P.O. submitted that, the provisions of the Transfer Act which are referred to by the applicant, are fully complied with by the respondent authorities.

11. Leaned P.O. further pointed out that in the Writ Petition filed by the Member of Parliament from the Aurangabad Lok Sabha Constituency before the Aurangabad Bench of the Hon'ble Bombay High Court, an issue was raised as about the vacancies of the higher posts in the Health Department. It was also alleged that the said vacancies are detrimental to the health system of the State. Learned P.O. pointed out that in the Public Interest Litigation, a statement was made on behalf of the Government that in time bound manner, higher posts in the Health Department will be filled in and as a measure of complying with the undertaking so given before the Hon'ble High Court the entire exercise was carried out. Learned P.O. submitted that at the relevant time, several posts of Joint Director, Deputy Director etc. in the Health Department were either vacant or were held as additional charge by existing few officers. In the said circumstances, a conscious decision was taken by the State Government to fill in all such vacancies.

Learned P.O. submitted that after having taken stock of the vacancies and having regard to the seniority of the officers in the feeder cadre, decision was taken to transfer 17 and 5 officers totaling to 22, whose names are mentioned in the impugned orders dated 11-11-2022. The applicant is one of such officers. Learned P.O. submitted that the transfers are made by the State having regard to the emergent situation which has arisen in the State on administrative ground and in sheer public interest. Learned P.O. submitted that Section 4(5) of the Transfer Act permits such transfers to be made before completion of the normal tenure of any officer. Learned P.O. in the circumstances has prayed for dismissal of the O.A.

12. Shri A.S.Deshmukh, learned Counsel appearing for respondent no.4 while adopting the arguments made on behalf of the learned P.O. submitted that no case is made out by the applicant in so far as the impugned order is concerned so as to term it being actuated with malice or abuse of power. Learned Counsel submitted that in absence of any such material on record, merely on the ground that it is a mid-term transfer, the impugned order which has been passed as a result of the conscious decision taken by the State Government which has been approved by the Hon'ble Chief Minister i.e. the highest authority of the State, cannot be set aside. Learned Counsel

submitted that mere statement is made that the transfer of the applicant has been effected at the behest of respondent no.4 but no material is placed on record which may support the allegations so made by the applicant. Learned Counsel submitted that the ratio laid down in the judgments relied upon by the applicant may not apply to the facts in the present case. Learned Counsel in the circumstances has prayed for rejecting the O.A.

13. I have duly considered the submissions advanced by the learned Counsel appearing for the applicant, learned P.O. appearing for the State authorities and the learned Counsel appearing for respondent no.4. I have gone through the pleadings of the parties as well as the documents filed on record. There are two orders of even date i.e. 11-11-2022. The first order which is at page 25 of the paper book marked as Annexure A-1 pertains to transfer of the applicant. The transfer order is in respect of transfer of 17 Medical Officers working on the post of Civil Surgeon or District Health Officer or Medical Superintendent or the specialists in the Government Medical Colleges. Another order which is at page 29 of the paper book is pertaining to 5 officers wherein name of respondent no.4 is reflected. Respondent no.4 was working as Medical Superintendent, Sub District Hospital, Georai, Dist. Beed and

vide the said order he has been transferred as District Civil Surgeon at District Hospital, Dhule. A copy of the order passed by the Minister on 12-11-2022 is at page 37 of the paper book (Annexure A-3). I deem it appropriate to reproduce the same as it is in vernacular, which is thus:

“उपरोक्त संदर्भीय विषयाबाबत “माता सुरक्षित घर सुरक्षित” अभियान सुरू असलेने प्रशासकीय कारणास्तव दिनांक—११/११/२०२२ चे प्रशासकीय बदली अंमलबजावणीस पुढील आदेश होईपर्यंत तात्पुरती स्थगिती देणेत येत आहे.”

14. From the aforesaid order, it is difficult to gather as to whether which of the two orders passed on 11-11-2022 was stayed by the Hon’ble Minister, conflicting submissions are made. According to Shri Wagh, learned Counsel for the applicant both the orders were stayed by the Hon’ble Minister whereas according to the contentions raised by the learned P.O. and the learned Counsel for respondent no.4, the order containing the name of respondent no.4 only was stayed. I do not see any propriety for indulging in the issue as to which order was stayed, for the reason that, stay was for a temporary period.

15. The issue which falls for my consideration in the present matter is ‘whether the impugned order can be set aside on the grounds taken or the objections raised by the applicant’.

According to applicant the impugned order has been passed in utter violation of the provisions under Section 4 of the Transfer Act and to facilitate the posting of respondent no.4 on her place. It would be, therefore, appropriate to see the provisions under Section 4 of the Transfer Act, which reads thus:

“4. Tenure of transfer.

(1) No Government servant shall ordinarily be transferred unless he has completed his tenure of posting as provided in section 3.

(2) The competent authority shall 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.

(3) 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:

Provided that, any dispute in the matter of such transfers shall be decided by the Chief Minister in consultation with the Chief Secretary.

(4) The transfers of Government servants shall ordinarily be made only once in a year in the month of April or May:

Provided that, transfer may be made any time in the year in the circumstances as specified below, namely:-

(i) to the newly created post 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;

(ii) 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;

(5) Notwithstanding anything contained in section 3 or this section, the competent authority may, 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, transfer a Government Servant before completion of his tenure of post.”

16. Sub section 4 and 5 of Section 4 are more material for deciding the present application. Sub section 4 provides that the transfer of the Government servants shall ordinarily be

made only once in a year in the month of April or May. The proviso thereunder, however, says that transfer may be made any time in the year in the circumstances specified thereunder. Sub section 5 says that competent authority may in special case after recording reasons in writing and with prior approval of the immediate superior authority mentioned in the table of Section 6, transfer a Government servant before completion of his tenure on the post. As has been submitted on behalf of the learned P.O., Government has duly complied with the requirements as are prescribed in clause (ii) of Sub section 4 of Section 4.

17. As has been submitted on behalf of the Government, transfer of the applicant as well as other 16 officers whose names are also there in the impugned order were essential in the exceptional circumstances, and special reasons are duly recorded in the noting which the respondents have placed on record. Clause 6 of the notings made in view of the letter dated 19-09-2022 issued by Commissioner, Health Services, Mumbai, carries reasons which necessitated the transfer of the officers like the applicant. Said noting needs to be reproduced hereinbelow, which reads thus:

“६. सामान्य प्रशासन विभागाच्या वरील शासन निर्णयाच्या संदर्भात येथे नमूद करण्यात येते की, सार्वजनिक आरोग्य विभागांतर्गत महाराष्ट्र

वैद्यकीय व आरोग्य सेवा, गट—अ संवर्गातील (१) सह संचालक, आरोग्य सेवा, (२) उप संचालक, आरोग्य सेवा व (३) जिल्हा शल्य चिकित्सक या संवर्गातील पदे मोठ्या प्रमाणावर रिक्त असून सदर रिक्त पदांचा अतिरिक्त कार्यभार उपलब्ध अधिका—यांना देण्यात आला आहे. पर्यायाने काही अधिका—यांकडे दोन वा त्यापेक्षा अधिक पदांचा कार्यभार सोपविण्यात आला आहे. त्यामुळे अशा अधिका—यांवर अतिरिक्त कामकाजाचा ताण पडत आहे. तसेच ते कोणत्याही एका कार्यभाराकडे पूर्णवेळ लक्ष देवू शकत नाही व पर्यायाने सर्व विषयांना पुरेसा न्याय देऊ शकत नाहीत. नमुद संवर्गातील अधिका—यांमार्फत “प्रादेशिक प्रमुख” म्हणून आरोग्य सेवेसंदर्भातील अत्यंत महत्वाची जबाबदारी पार पाडण्यात येते. प्रादेशिक प्रमुख पदांवर अधिकारी कार्यरत असणे हे प्रशासकीयदृष्ट्या अत्यंत आवश्यक आहे. याकरीता विभागामार्फत या संवर्गातील रिक्त पदे ही पदोन्नतीने व सरळसेवेने भरण्याची कार्यवाही करण्यात येत असून त्यामार्फत अधिकारी उपलब्ध होण्यास काही कालावधी लागणार आहे. तसेच, मा. मंत्री महोदयांनी दि.१३.०९.२०२२ रोजी आरोग्य भवनात पार पडलेल्या बैठकीमध्ये एका अधिका—याकडे केवळ एका विषयाचे कामकाज सोपविण्याबाबत निर्देश दिलेले आहेत. सबब, प्रशासकीय सोय म्हणून नमूद संवर्गातील रिक्त पदे पद श्रेणीअवनत करून निम्न संवर्गातील अधिका—यांमधून सेवा ज्येष्ठतेनुसार भरणे अत्यंत आवश्यक आहे.”

Prior to that, in paragraph 5 also some information is available which also needs to be considered, which is thus:

“५. सामान्य प्रशासन विभागाने सन २०२२—२३ या आर्थिक वर्षामध्ये “महाराष्ट्र शासकीय कर्मचा—यांच्या बदल्यांचे विनियमन आणि शासकीय कर्तव्ये पार पाडताना होणा—या विलंबास प्रतिबंध अधिनियम, २००५” नुसार करण्यात येणा—या बदल्या दिनांक ३०. ०६.२०२२ पर्यंत करण्यात येऊ नयेत. तथापि, प्रशासकीय कारणास्तव तातडीने एखादी बदली करणे आवश्यक असल्यास अशी

बदली मा. मख्यमंत्री महोदयांच्या मान्यतेने करण्याचे निर्देश दिनांक २७.०५.२०२२ च्या शासन निर्णयान्वये दिलेले आहेत.”

In paragraph 7, conclusions are recorded which are thus:

“७. वर विशद केल्याप्रमाणे, सार्वजनिक आरोग्य विभागांतर्गत महाराष्ट्र वैद्यकीय व आरोग्य सेवा, गट—अ संवर्गातील सह संचालक, आरोग्य सेवा व उप संचालक, आरोग्य सेवा या संवर्गातील रिक्त पदे निम्न संवर्गातील अधिका—यांमधून तात्पुरत्या स्वरूपात बदलीने/पदश्रेणी अवनत करून आणि जिल्हा शल्यचिकित्सक संवर्गातील जिल्हा शल्यचिकित्सक पद बदलीने तातडीने भरणे आवश्यक असल्याने, आरोग्य सेवा आयुक्तालयाने केलेल्या शिफारशीनुसार “महाराष्ट्र शासकीय कर्मचा—यांच्या बदल्यांचे विनियमन आणि शासकीय कर्तव्ये पार पाडताना होणा—या विलंबास प्रतिबंध अधिनियम, २००५” मधील कलम ४ (४) व ४ (५) आणि कलम ६ मधील तरतुदीनुसार परिच्छेद—३ मधील प्रस्ताव चक्रीय पध्दतीने नागरी सेवा मंडळामार्फत सक्षम प्राधिकारी यांच्या मान्यतेकरीता सादर करण्यात येत आहे.”

18. As is revealing from the contents of paragraph 6 of the noting, concerned Minister had taken a meeting on 13-09-2022 and the issue was firstly discussed in the said meeting, and the proposal forwarded to the Government is also placed on record. Paragraph 2 of the said communication dated 19-09-2022 reads thus:

“२. मा. मंत्री महोदय, सा.आ.वि. व कु.क. विभाग यांचे अध्यक्षतेखाली आरोग्य भवनात अरोग्य विभागाचा आढावा घेण्याकरीता दि.१३.०९.२०२२ रोजी बैठक आयोजित करण्यात आली होती. सदरहू बैठकीच्या वेळी वरील बाब मा. मंत्री महोदय यांचे निदर्शनास

आली असून त्यानुषंगाने एका अधिका—याकडे केवळ एका विषयाचे कामकाज सोपविण्याबाबत त्यांनी निर्देश दिले आहेत. तसेच आज दि.१९/०९/२०२२ रोजी मा. अपर मुख्य सचिव तसेच मा. आयुक्त आरोग्य सेवा व मुख्य प्रशासकीय अधिकारी यांचे बैठकीमध्ये झालेल्या चर्चेनुसार दि.१५/९/२०२२ रोजीच्या सादर टिपणीतील प्रस्तावामध्ये काही सुधारणा करून खालीलप्रमाणे सेवाज्येष्ठतेनुसार अधिका—यांना श्रेणीअवनत करून पदस्थापना देण्याबाबत शासनास प्रस्तावित करण्यात येत आहे.”

19. Perusal of the said paragraph reveals that on 19-09-2022, the meeting had taken place of the committee consisting of Additional Chief Secretary, Commissioner of Health Services and the Chief Administrative Officers, Health Department. Said committee after making deliberations, has submitted a proposal to the Additional Chief Secretary, Health Services for effecting transfers of the concerned officers. Opening paragraph of the said letter reveals the object of the proposal so made. Based on the said proposal, transfer orders have been passed. In the affidavit in reply filed on behalf of the respondents, precisely, they have submitted about the steps taken and the proposal so finalized and implemented.

20. After having gone through the pleadings of the parties and noting which are placed before the Tribunal, it is revealed that before taking such decisions the deliberations were carried out at the appropriate level, having involvement of the Minister

concerned. Thereafter, the committee which is empowered to take decision in such matters took the decision to fill up the vacancies of the officers of the higher rank in the Health Department and the said decision has been approved by all concerned. As has been submitted by the learned P.O., in the specific circumstance mentioned in the notings, the State was required to take such decision. It has also been contended that the decision so taken was in public interest. It has also been argued that it was essential to take such decision at the relevant time. From the facts which are there on record, I see no reason to disagree with the submissions as are made by the learned P.O. The notings which are placed on record also contain the reasons which are canvassed by the learned P.O. Moreover, it does not appear that transfer of the applicant is made at the behest of respondent no.4. Alongwith the applicant, there are about 16 other officers who have also been transferred from their respective places and posted to the post of Joint Director, Deputy Director and Assistant Director, as the case may be, in the Health Services. It is not the case that the applicant is singled out. None of the other 16 officers is reported to have questioned the impugned order.

21. There cannot be a dispute about the ratio laid down in the judgments relied upon by the applicant. The mid-term or

premature transfer has to be strictly according to law by a reasoned order in writing and after a due and prior approval of a competent transferring authority, as has been held in the cited judgments. True it is that, in the impugned order the reasons for the transfer are not elaborated, however, in the affidavit in reply filed on behalf of the respondents, such reasons are disclosed and the relevant documents, more particularly, relevant notings are placed on record by the respondents. The genuineness of the reasons so recorded in the notings has not been denied or disputed by the applicant. In the circumstances, ratio in the cited judgments may not apply to the facts of the present case.

22. It further appears to me that unless a case is made out by an employee that his or her mid-term transfer is a mala fide exercise of power by the State, the authority of the State is not to be lightly interfered with. In the present matter, no such mala fide exercise of power on part of the State has been alleged, neither any such material is produced on record. Every violation of the statutory obligation may not be branded as misuse or arbitrary exercise of the power by the State authorities. It is not denied by the applicant that there are vacancies of the posts of Deputy Director, Joint Director etc. in the Health Department. It cannot be lost sight of that in the

course of administration several decisions are to be taken by the authorities of the State; all decisions may not be perfect, however, unless it is proved that there was misuse or abuse of the power in taking such decision, the authority of the State is not to be lightly interfered with. In the present matter the applicant had not produced any such material. The allegations made and the objections raised by the applicant fall short to record any such conclusion that the impugned order has been passed with mala fides or in utter violation of the norms governing the transfers. Genuine administrative exigencies cannot be ignored by the Tribunal. The impugned order, therefore, cannot be said to be vitiated by mala fides. In the circumstances, which are canvassed by the learned P.O., if a conscious decision has been taken and consequently the impugned order has been passed, it cannot be said to have passed to cause hardship to the applicant. Moreover, I reiterate that the applicant is not the only officer who has been transferred.

23. For the reasons as stated above the following order is passed:

ORDER

O.A. stands dismissed without any order as to costs.

VICE CHAIRMAN

LATER ON

24. After passing the abovesaid order, learned Counsel for the applicant has sought continuation of the interim relief granted in favour of the applicant for next two weeks stating that the applicant is intending to approach the Hon'ble High Court against the order passed by this Tribunal today. Request is opposed by the learned P.O. as well as the learned Counsel for respondent no.4. It is true that, vide the interim order passed on 15-11-2022 this Tribunal had directed the respondents to continue the present applicant on the post of Civil Surgeon at Dhule. According to the applicant on the strength of the said interim order she is still continuing with the charge of the post of Civil Surgeon at Dhule whereas it is the contention of the learned Counsel appearing for respondent no.4 that respondent no.4 has already taken charge of the said post. Learned P.O. has supported the submission so made on behalf of the learned Counsel for respondent no.4. The documents placed on record by respondent no.4 show that respondent no.4 has been relieved from his earlier post at Georai, Dist. Beed and the Deputy Director, Health Services, Nashik has passed the necessary orders for taking over the charge of the post at Dhule by respondent no.4.

25. Applicant has a right to challenge the decision given by this Tribunal before the Hon'ble High Court. The applicant is intending to approach the Hon'ble High Court. The interim order passed on 15-11-2022 by this Tribunal is in operation till today. In the circumstances, I deem it appropriate to accept the request of the applicant. Hence, the following order:

ORDER

Effect and operation of the interim order passed by the Tribunal on 15-11-2022 shall continue for next two weeks.

VICE CHAIRMAN

Place : Aurangabad
Date : 28.11.2022.