

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.432 OF 2021
(Subject:- Transfer)**

DISTRICT: - Latur.

Mayadevi Shivajirao Khadiwale)
Age 38 years, Occ. Service)
as Live Stock Development Officer,)
Veterinary Dispensary,)
Shirur Tajband, Taluka Ahmedpur,)
District Latur.)
R/o.Sugandhadeep Niwas Shelhal Road)
Taluka Udgri District Latur,)
Mob. No.9021338587)...**APPLICANT**

V E R S U S

1. The State of Maharashtra)
Through Secretary Agriculture,)
Animal Husbandry, Fisheries,)
Department,)
Mantralaya Mumbai-400 032.)

2. District Animal Husbandry)
Officer,)
Latur, Zilla Parishad Latur.)...**RESPONDENTS**

APPEARANCE : Shri Asif Ali, learned Advocate holding
for Smt A.N. Ansari, learned Advocate
for the applicant.

: Shri I.S. Thorat, learned Presenting
Officer for the respondent No.1

: Shri P.R. Tandale, learned Advocate for
the respondent No.2.

CORAM : **SHRI V.D. DONGRE, MEMBER (J)**

DATE : **26.09.2022**

ORDER

1. By invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, this Original Application is filed challenging the impugned transfer order dated 09.08.2021 (Exh. 'A-3') to the extent of the applicant issued by the respondent No.1, thereby transferring the applicant from the post of Live Stock Development Officer, Veterinary Dispensary, Shirur Tajband, Taluka Ahmedpur, Dist. Latur to the post of Live Stock Development Officer, Veterinary Dispensary, Ambulga, Taluka Nilanga, Dist. Latur.

2. The facts in brief giving rise to this Original Application can be stated as follows:-

(i) The applicant was working on her present posting since 10.11.2017. It is submitted that while working at her present posting, it was detected that the applicant is suffering from Breast Cancer. Therefore, she underwent surgery on 10.04.2021 in respect of which medical certificate dated 12.04.2021 (Exh. 'A-1') is produced. Thereafter, the applicant

was advised Chemotherapy and Radiotherapy as reflected in medical certificate dated 15.05.2021 at page No.13 of P.B. issued by Medical Superintendent, Vilasrao Deshmukh Government Institute of Medical Sciences, Latur.

(ii) The applicant after undergoing surgery for cancer as above, made representations dated 10.06.2021 and 18.06.2021 (Exh. 'A-2' collectively) seeking retention at her present posting at Shirur Tajband. Moreover, the applicant has a daughter aged about 10 years and a son about 3 years old. Her daughter is taking education in Kendriya Vidyalaya at Chakur, Dist. Latur as reflected in bonafied certificate dated 11.08.2021 (Exh. 'A-4') issued by the said school. The applicant is residing with her husband, children and old aged in-laws. Father in law of the applicant is suffering from Hemiplegia/Paralysis. He requires medical treatment. In view of the same, the applicant further made representation dated 30.07.2021 (part of Exh. 'A-5' collectively) seeking retention.

(iii) However, by the impugned transfer order dated 09.08.2021 (Exh. 'A-3'), the applicant is transferred to Veterinary Dispensary, Ambulga, Taluka Nilanga, Dist. Latur. The said transfer is totally inconvenient and is causing

hardship to the applicant and her family members. Education of her daughter is also likely to be suffered. It would be difficult for the applicant to seek medical treatment from the transferred place. The respondent No.1 failed to consider her representations seeking retention. The applicant, after receipt of her transfer order, submitted representation on 10.08.2021 (Exh. 'A-5' collectively, page Nos.20 & 21 of P.B.) seeking alternate place of transfer at Veterinary Dispensary, Handurgulli, Taluka Udgir, Dist. Latur which is fallen vacant after issuances of general transfer orders. The said representation is also not considered. Hence, this application.

3. Affidavit-in-reply is filed on behalf of the respondent No.1 by one Sanjay Jaywant Gaikwad working as Regional Joint Commissioner, Animal Husbandary, Aurangabad Division, Aurangabad, thereby he denied all the adverse contentions raised in the Original Application.

(i) It is not disputed that the applicant made representations from time to time for retention. It is however, submitted that the applicant has been appointed as Live Stock Development Officer, Group-A under Maharashtra Animal Husbandry Services Group-A and her services are

transferable all over Maharashtra. The applicant has been transferred within a district. The transfer order is issued by observing the relevant provisions of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as 'Transfer Act, 2005'). As the applicant has not joined at the transferred place, the difficulty is caused to dumb animals and their poor animal owners. Hence the application is liable to be dismissed.

4. I have heard at length the arguments advanced by Shri Asif Ali, learned Advocate holding for Smt. A.N. Ansari, learned Advocate for the applicant on one hand, Shri I.S. Thorat, learned Presenting Officer for the respondent No.1 and Shri P.R. Tandale, learned Advocate for the respondent No.2 on other hand.

5. Undisputedly the applicant was working at her present posting since 10.11.2017. The impugned order of transfer order is dated 09.08.2021 (Exh. 'A-3') issued by the respondent No.1 i.e. the State of Maharashtra. The applicant is holding the post of Live Stock Development Officer. In view of the same, the respondent No.1 i.e. the State of

Maharashtra is the competent transferring authority of the applicant. The applicant belongs to Group –A category. Hence as per Section 3 of the Transfer Act, 2005, the normal tenure of the applicant at one place of posting is of three years. Transfer order dated 09.08.2021 is general transfer order. It is not in dispute that the general transfer order is issued in accordance with law and more particularly as per the procedure laid down under the Transfer Act, 2005.

6. It is the contention of the applicant that before issuance of transfer order, the applicant made representations dated 10.06.2021 and 18.06.2021 (Exh. 'A-2' collectively) and dated 30.07.2021 (Exh. 'A-5', page No.19 of P.B.) seeking retention on the ground of her illness supported by medical certificate. She contended that she was suffering from Breast Cancer and for that she underwent surgery on 10.04.2021 at Latur Super Specialty Private Limited Hospital and she requires continuous treatment. Therefore, by the said representations, she sought retention at her present posting at Shirur Tajband, Taluka Ahmedpur, Dist. Latur. However, without considering the said representations, the impugned transfer order was issued. Further according to her, she has a daughter and a son and old aged in-laws. Her daughter is

taking education in Kendriya Vidyalaya at Chakur, Dist. Latur, which is nearby to her present posting. There is no Kendriya Vidyalaya near the transferred place. Hence, her family is going to suffer.

7. After receipt of transfer order dated 09.08.2021, the applicant made representation dated 10.08.2021 (part of Annex. 'A-5' collectively, page Nos.20 & 21 of P.B.) seeking modification in transfer order and posting at Veterinary Dispensary, Hundergulli, Taluka Udgir, Dist. Latur contending that the said place is vacant. However, her said representation is also not considered.

8. After having considered the abovesaid factual position, it can be seen that the impugned transfer order dated 09.08.2021 (Exh. 'A-3') to the extent of the applicant is undisputedly general transfer order and the applicant was due for transfer. Nothing is mentioned in the Original Application to assail the transfer order on the ground of contravention of any of the provisions of Transfer Act, 2005. In the circumstances, on the ground that the impugned order of transfer is inconvenient, the same is sought to be quashed and set aside. However, the law relating to transfer does not

lay down that only because the order is inconvenient or not suitable, it can be quashed and set aside.

9. Infact the applicant by the impugned order of transfer is being transferred in the same district from one Taluka to another Taluka. However, due to difficulty faced by the applicant, retention or modification sought by the applicant in transfer order at alternate place at Handurgulli, Taluka Udgir, Dist. Latur cannot be said to be totally irrelevant and misplaced. However it cannot be said that the applicant is seeking retention or modified posting at Handurgulli, Taluka Udgir, Dist. Latur with any ill motive. The grievance of the applicant seems to be genuine. In view of the same, in my considered opinion, the respondent No.1 i.e. the competent transferring authority can consider the previous three representations seeking retention at Shirur Tajband, Taluka Ahmedpur, Dist. Latur or alternate modified posting at Handurgulli, Taluka Udgir, Dist. Latur favorably by taking into consideration of administrative exigencies and vacancy at the place. Accordingly, this Original Application though cannot be allowed quashing the setting aside the impugned transfer order of the applicant, the respondent No.1 can be

given suitable directions. Hence I proceed to pass the following order:-

ORDER

- (A) The Original Application stands dismissed.
- (B) However, the respondent No.1 is directed to consider the representations dated 10.06.2021, 18.06.2021 (Annex. 'A-2' collectively) and 30.07.2021 (Annex. 'A-5') for retention at Shirur Tajband, Taluka Ahmedpur, Dist. Latur or representation dated 10.08.2021 seeking modified alternate posting at Handurgulli, Tal. Udgir, Dist. Latur within the period of one month from the date of this order. Till then, the interim relief granted in the matter to continue.
- (C) No order as to costs.

(V.D. DONGRE)
MEMBER (J)

Place:-Aurangabad
Date : 26.09.2022
SAS O.A.432/2021