

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 478 of 2020 (S.B.)

Damodhar Natthuram Gawadkar,
Aged about 53 years, Occ. Service,
R/o Ward No.9, Sadepar Road, Deori,
Tq. Deori, Dist. Gondia.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Ministry of Revenue and Forest Department,
Mantralaya, Mumbai-32.
- 2) The Principle Chief Conservator of Forest
(M.S.), Van Bhavan, Civil Lines, Nagpur.
- 3) The Chief Conservator of Forest (Region),
Nagpur Region, Van Bhavan, Civil Lines,
Nagpur.
- 4) The District Forest Officer, Gondia,
Tq. & Dist. Gondia.

Respondents.

Shri S.N. Gaikwad, Advocate for the applicant.

Shri A.P. Potnis, P.O. for respondents.

**Coram :- Hon'ble Shri Anand Karanjkar,
Member (J).**

Date of Reserving for Judgment : 1st December, 2020.

Date of Pronouncement of Judgment : 7th December, 2020.

JUDGMENT

(Delivered on this 7th day of December, 2020)

Heard Shri S.N. Gaikwad, learned counsel for the
applicant and Shri A.P. Potnis, learned P.O. for the respondents.

2. The applicant is challenging transfer order dated 31/7/2020 by which the applicant is transferred from Gondia to Wardha. The transfer is attacked only on the ground that the applicant was serving in the naxalite area and therefore it was incumbent on the respondents to give desired posting to the applicant. It is submitted that the respondents have not complied the Government G.Rs. dated 9/4/2018 and 7/7/2020. It is submitted that there was no reason to transfer the applicant and the respondents did not consider the options given by the applicant and gave him posting at Wardha. It is submitted that till today one post is vacant at Sakoli, District Bhandara Division, but the applicant was not accommodated there and transferred to Wardha. It is contention of the applicant that the impugned transfer order is bad in law and it is malafide exercise of jurisdiction by the respondents.

3. The respondents have justified the transfer. It is contention of the respondents that it was necessary for the applicant to give 10 options, the applicant given only 8 options, out of which 7 options were in Gondia District and one option was in Range Forest, Sakoli, District Bhandara. It is submitted by the respondents that two posts were vacant at Wardha and due to administrative exigency it was necessary to post the applicant and therefore the applicant was not posted at Sakoli and posted at Wardha. It is submitted that the

applicant worked at Gondia for a continuous period of six years and three months and therefore there is no reason in contention of the applicant that his transfer is illegal or malafide.

4. It is undisputed that the applicant served in the office of Chief Conservator of Forests, Pench Tiger Project, Nagpur for six years, three months and since 7/5/2014 till the impugned transfer the applicant worked in the office of Deputy Conservator of Forests, Gondia and that period is six years and two months.

5. There cannot be a dispute that the Government has issued guidelines how to safeguard interest of the Government servants who are posted in naxalite or tribal area and there is a guideline that their options be considered and they be given choice posting. Here, I would like to point out that the applicant gave 7 options in Gondia District itself and one option in Bhandara District. It is contention of the respondents that all the posts in Gondia District for which options were given by the applicant were not vacant, only post at Sakoli was vacant, but as two posts were vacant at Wardha and it was necessary to fill the post, consequently, the applicant was posted at Wardha.

6. As the applicant had completed period of six years at Gondia, therefore, as per the provisions under Section 3 of the Maharashtra Government Servants Regulation of Transfers and

Prevention of Delay in Discharge of Official Duties Act, 2005 (In short "Transfers Act,2005") it was incumbent on the respondents to transfer the applicant, there was no choice. Opportunity was given to the applicant to submit his options and the applicant is responsible for giving 7 options in Gondia District and one option in Bhandara District. So far as the provision in Government G.R., that desired posting be given to the Government servant in naxalite area is concerned, that provision is directory, it is not mandatory and more over the respondents have not given posting in naxalite area to the applicant, he is posted at Wardha. There is substance in the contention of the respondents that two posts of the Accountants were vacant in Wardha District, consequently, it was necessary to fill at least one post and therefore the respondents have posted the applicant in Wardha District. Apparently, there is no illegality in the transfer order and so far as malice is concerned, the applicant was unable to demonstrate that the respondents were actuated by malice, in absence of evidence of malice and malafide it is not possible to say that the exercise of jurisdiction was arbitrary. In view of this, I do not see any merit in this application. Hence, the O.A. stand dismissed. No order as to costs.

Dated :- 07/12/2020.

(Anand Karanjkar)
Member (J).

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I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 07/12/2020.

Uploaded on : 08/12/2020.

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