

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 477/2023
WITH CIVIL APPLICATION NO. 415/2023 (S.B.)

Shri Gajendra S/o Padmakar Jadhav,
Aged about 51 years, Occ. Service,
R/o D.I.G.P. (S.R.P.F.), Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
Through it's Secretary,
Home Department,
Mantralaya, Mumbai- 400 032.
- 2) The Director General of Police,
Maharashtra State, Mumbai.
- 3) The Additional Director General of Police (Administration),
Maharashtra State, Mumbai.
- 4) The Special Inspector General of Police (Administration),
Maharashtra State, Mumbai.
- 5) Shri Milind S/o Namdeo Waghmare,
Aged : Major, Occ. Service,
R/o C/o Special General of Police,
Nanded Range, Nanded.

Respondents

Shri G.G.Bade, Id. Advocate for the applicant.

Shri M.I.Khan, Id. P.O. for the respondents 1 to 4.

None for the R-5.

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGMENT

Judgment is reserved on 19th Dec., 2023.

Judgment is pronounced on 21st Dec., 2023.

Heard Shri G.G.Bade, Id. counsel for the applicant and Shri M.I.Khan, Id. P.O. for the Respondents 1 to 4. None for the R-5.

2. Case of the applicant is as follows. By order dated 24.04.2023 (A-1) the applicant, who was holding the post of Office Superintendent, was transferred from Nagpur to Gadchiroli and respondent no. 5 was transferred from Nanded to Daund. By order dated 16.05.2023 (A-2), on request, transfer order of respondent no. 5 was modified and he was transferred to Amravati on the post which was to fall vacant on 31.05.2023. Request for modification of his transfer order made by the applicant was, however, turned down by order dated 16.05.2023 (A-3). This rejection was contrary to G.R. dated 09.04.2018 (A-4). His subsequent request for such modification was also unjustly turned down by order dated 09.08.2023 (A-11). Request applications dated 07.05.2014, 27.07.2015, 25.05.2017, 22.05.2018 and 30.08.2021

(A-10 collectively) made by the applicant were also rejected. Hence, this Original Application.

3. In his application dated 28.04.2023 (A-9) the applicant stated :-

माझे आईचे वय सध्या ७० वर्षे असून ती वयोवृद्ध असल्याने तीला हार्ट/बिपी /पायाचे गुडघ्याचे" आजाराचे नेहमी आजारी राहते, व तिचा वैद्यकीय उपचार अमरावती येथे सुरु आहे. सोबत वैद्यकीय कागदपत्रे जोडलेली आहे. तसेच माझ्या पत्नीचे वय ४८ वर्षे असून ती सुध्दा सतत आजारी राहत असून मागील काही महिन्यांपासून तिला "ब्रेस्ट कॅन्सर" हा आजार झालेला असून तीचा वैद्यकीय उपचार अमरावती येथे सुरु आहे. सोबत वैद्यकीय कागदपत्रे जोडलेली आहे. माझा मोठा मुलगा हा NIT तिरुचिल्लापली, तामिळनाडु राज्य येथे शिक्षण घेत असून लहान मुलगा ९ वी मध्ये शिकत आहे. त्यामुळे सध्या माझ्या घरामध्ये मोठा कर्ता व्यक्ती कोणीही नाही. मी नागपूर येथे कर्तव्यावर असून मला आईचे व पत्नीचे अत्यंत तातडीचे वेळी १५०+ १५० कि.मी नागपूर ते अमरावती जाणे/येणे अशक्य होत आहे. मागील १० वर्षांपासून सन २०१३ ते २०२३ पासून मी नागपूर येथे कर्तव्यार्थ असून माझे कुटुंब अमरावती येथे वास्तव्यास असल्याने माझे कुटुंबाचे वैद्यकीय उपचारामध्ये मला पूर्णपणे लक्ष देणे अतिशय अवघड झालेले आहे. तसेच माझे वय ५१ वर्षे असून मागील १० वर्षांपासून नागपूर-अमरावती-नागपूर ३०० कि.मी. जाणे-येणे या प्रवासामुळे/दगदगीमुळे मला बी.पी. व कमरेचा स्पॉन्डायलोसिस हा आजाराचा सामना करावा लागत आहे. यावेळी माझी बदली अमरावती येथे न झाल्यास मला नाईलाजास्तव स्वेच्छा सेवानिवृत्ती घेण्याशिवाय दुसरा मार्ग राहणार नाही.

तेव्हा आपणास नम्रपणे विनंती आहे की, माझे कुटुंबिय अमरावती येथे वास्तव्यास असून त्यांचा वैद्यकीय अडचणीचा विचार होऊन तसेच माझा सन २०१३ ते २०२३ आजपर्यंत १० वर्षांचा नक्षल/अवघड क्षेत्रात कार्यरत कालावधी विचारात घेता महाराष्ट्र शासन, सामान्य प्रशासन विभाग, शासन निर्णय क्रमांक टिआरएस-२००/प्र.क्र.३/१२, दिनांक ११/०७/२००० व दिनांक ०६/०८/२००२ चे तरतुदीचे अधिन राहून पसंतीच्या ठिकाणी बदली देण्याचे धोरण असल्याने माझी पोलीस उप महानिरीक्षक, गडचिरोली परिक्षेत्र ऐवजी कार्यालय अधीक्षक पदावर प्रशासकीय

कारणास्तव विशेष पोलीस महानिरीक्षक, अमरावती परिक्षेत्र, अमरावती कार्यालयात दिनांक ३१/०५/२०२३ रोजी श्री. वाईन्देशकर, कार्यालय अधीक्षक यांचे सेवानिवृत्तीमुळे रिक्त होणा-या पदी बदली होण्यास विनंती आहे. तसेच बदलीसंदर्भात मा. पोलीस महासंचालक, महाराष्ट्र राज्य, मुंबई यांचा आज्ञांकित कक्ष मिळणेस विनंती आहे.

4. Stand of respondents 2 to 4 is as follows. The applicant was due for transfer. He cited grounds of advanced age of his parents and his own ailments. Gadchiroli was his second choice. He was accordingly given posting at Gadchiroli. Following details of postings of the applicant will reveal that there is no substance in the O.A.:-

Posting details during service
<p>a) As Junior Grade Clerk, At SP, Amravati 01/01/1993 to 06/04/1995</p> <p>At Spl. IG, Amravati Range 07/04/1995 to 24/09/2001</p>
<p>b) As Senior Grade Clerk At Spl. IG, Amravati Range 25/09/2001 to 26/05/2008</p>
<p>c) As Head Clerk At SRPF, Unit 12, Hingoli 05/06/2008 to 01/06/2009</p> <p>At Dy.IG, Amravati Range 12/06/2009 to 04/07/2013</p> <p>At SRPF, Unit 13, Nagpur 15/06/2013 to 01/06/2019</p> <p>At SRPF, Unit 9, Amravati 03/06/2019 to 10/01/2020</p>

<p>d) As Office Superintendent At Commandant, SRPF, Nagpur 20/01/2020 till date</p>
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The applicant did not mention anything about his wife suffering from Cancer, while giving choices for posting. There was no breach of any guideline contained in G.R. dated 09.04.2018. Respondent no. 5 had requested for posting him at Amravati, by modifying order of his posting at Daund, citing Kidney failure of his wife. This ground was supported by medical papers. Moreover, respondent no. 5's date of retirement on superannuation is 30.06.2026 whereas the applicant's date of retirement on superannuation is 31.12.2030. Therefore, request application of respondent no. 5 was allowed.

5. In his rejoinder the applicant has stated that no medical papers in respect of ailing wife of respondent no. 5 were placed on record by the contesting respondents. There is no reason to discard specific contention of these respondents that request of respondent no. 5 was allowed owing to compelling health grounds of his wife.

6. In his additional affidavit respondent no. 2 has stated:-

As per GR dated 09/04/2018 issued by the General Administration Department of Government of Maharashtra, Annexure 2 (6), there is a provision for request transfers of the Government Employees for the reasons specified therein i.e. more specifically when either husband or

wife or children or dependent parents or in case of female Government Employees their dependent In-Laws are suffering from Cancer, then they can request transfer to their choice posting and such request transfer applications are considered by the Competent Authority based on availability of vacancies for the said post, retirement date of the concerned employee as well as earlier postings in the service of the said employee and lastly the administrative urgency of the employer. Copy of the said G.R. dated 09/04/2018 issued by the GAD of Government of Maharashtra is annexed herewith and marked as Annexure-R-1. Accordingly, in the instant case, since, along with the present applicant, Shri Milind Waghmare had also preferred such representation for request transfer to Amravati as his wife is suffering from Cancer, after giving due consideration to both the applications and considering the reasons mentioned by Shri Waghmare in his application, as there was only one post vacant at the office of Dy. I.G., Amravati Range and since, the date of retirement of Shri Waghmare is earlier than that of the present applicant also after considering the entire service record regarding postings of both Shri Waghmare and the present applicant, it was decided by the Establishment Board to transfer Shri Waghmare to the office of Dy. I.G., Amravati Range. Accordingly, orders were issued vide order dated 24/04/2023.

As per Rule 5(IV) of the GR dated 09/04/2018 of G.A.D., appended above, the Establishment Board while recommending any case for request transfer needs to see firstly, the choice of preference posting given by the candidate, secondly, his seniority and earlier postings and thirdly, the administrative urgency. Accordingly, in the instant case, as elaborately explained in detail in reply filed on behalf of Respondent No. 2 dated 15.06.2013 in the instant Original Application, it is clearly seen that as per the second choice of preference given by the applicant, he was posted at the office of Dy. I.G., Gadchiroli Range. From the chart given in the said reply, it is seen that looking at the entire 30 years service of Applicant, almost 24 years period he has spent in Amravati District only and, therefore, looking at these facts and circumstances, the Establishment Board had posted him to the office of Dy. I.G., Gadchiroli Range.

As per Clause that as 5(K)(4) of the G.R. dated 09/04/2018 appended hereinabove, when a Government Employee is transferred by the decision of Establishment Board on the basis of earlier postings of the employee and which is strictly as per one of the 10 choices of preferences given by the concerned employee at the time of making application for such request transfers, then the said employee cannot make any further application for reconsideration. However, it is most respectfully submitted that the present applicant, during pendency of this Original Application, preferred a representation for reconsideration of his request but as explained hereinabove, since, based on various reasons as Shri Waghmare was already posted at the

office of Dy. I.G., Amravati Range and due to which there was no vacancy at Amravati for the post of that of the applicant, his representation was rejected and the same was communicated by the office of respondent no. 2 to the applicant.

7. Various contentions of respondents 2 to 4 have been elaborately dealt with as above. There is considerable substance in the same. No ground is made out to interfere with the impugned order. The O.A. is dismissed and C.A. is disposed of. Interim relief stands vacated. No order as to costs.

Member (J)

Dated :- 21/12/2023

aps

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

Name of Steno : Akhilesh Parasnath Srivastava.

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

Judgment signed on : 21/12/2023
and pronounced on

Uploaded on : 22/12/2023