

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO.500 OF 2016**

**DISTRICT : PUNE**

1. Smt. Swati Kailas Phulsunder )  
Age 36 years, Working as Assistant )  
Chemist, R/at. 501, A-2, 10 Elite, )  
Near PCMC Swimming Pool, Pimpale )  
Gurav, Pune 411061. ).....**Applicants**

**VERSUS**

1. State of Maharashtra, through )  
Chief Secretary, Mantralaya, )  
Mumbai – 400 032. )
2. The Principal Secretary, Water )  
Supply and Sanitation Department, )  
7<sup>th</sup> floor, G.T. Hospital Building, )  
Lokmanya Tilak Road, Mumbai 1. )
3. Shri J.A. Mahajan, Assistant )  
Chemist, Office of Deputy Director, )  
Ground Water Survey & Devlp. )  
Agency, Amravati. ).....**Respondents**

Smt Punam Mahajan, the learned Advocate for the Applicant.

Ms S.Suryawanshi, learned Presenting Officer for the Respondents.

**CORAM : Shri R.B. Malik, Member (J)**

**DATE : 10.03.2017**

## **ORDER**

1. This Original Application calls into question the Applicant's transfer from Pune to Amravati on several grounds. The provisions of the Act viz the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (Transfer Act hereinafter), are relevant.
  
2. I have perused the record and proceedings and heard Smt. Punam Mahajan, the learned Advocate for the Applicant and Ms S. Suryawanshi, the learned P.O. for the Respondents.
  
3. In fact the affidavit-in-reply filed on behalf of the second Respondent, Principal Secretary, Water Supply and Sanitation Department by Shri Mahesh B. Sawant, Deputy Secretary, Water Supply and Sanitation Department in Para 6.9.1 and 6.9.3 makes it quite clear that the Applicant was not due for transfer as she has not completed three years of her tenure. It is, further admitted that the proposal of her transfer was not sent to the Water Supply and Sanitation Department nor was it placed before the Civil Service Board. The committee did not discuss the issue of her transfer nor had it made any recommendations to the Competent Authority. The Competent Authority decided to transfer the Applicant purely on administrative ground as per the provisions of Section 4 (4) of the Transfer Act. It is also admitted that under the relevant provisions of the Transfer Act, 2005 the reasons were to be recorded in writing stating the exceptional circumstances in the transfer of the Applicant but no such reasons were put on record in this particular matter. I think relying only on the above plea and that too the affidavit-in-reply itself the fate of this O.A. is decided against the Respondents. On their own showing the relevant provisions of the Transfer Act have not been complied and, therefore, in statute governed transfer aspect of the service condition, the impugned action has got to be struck down. At the interim stage, this Tribunal presided over by the Hon'ble Chairman was pleased to grant interim relief. The said order continues to govern the parties. The third Respondent and the Applicant were transferred vice each other and as a result of this order for all practical purpose the state of affairs such as

they obtained at the time of filing of the O.A. will have to be confirmed.

4. None appeared for the third Respondent before me. The order herein impugned is hereby quashed and set aside. The transfer of the Applicant from Pune to Amravati is consequentially annulled. The order of interim relief stands confirmed and the Applicant shall not be transferred from Pune till such time as by law and rules she becomes due for transfer and that too in accordance with law but no specific directions are being given to act in a particular way.

5. Original Application is allowed in these terms with no order as to costs.

**Sd/-**  
**(R.B. MALIK)**  
**MEMBER (J)**

**Date : 10.03.2017**

**Place : Mumbai**

**Dictation taken by : VSM**

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