

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 632/2023 (S.B.)

Shri Sheshrao S/o Yadav Dhakate,
aged about 49 years,
Occu- Mechanic Police Hawaldar,
R/o Plot nos. 48 & 50, Chakayi Nagar,
Teachers Colony, Ward no. 15,
Tq. & Dist. Gadchoroli.

Applicant.

// VERSUS //

- 1) State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai - 01.
- 2) State of Maharashtra,
through its Special Inspector General of Police,
Motor Transport Section, Aundh,
Pune.
- 3) The Commissioner of Police,
Nagpur.
- 4) Superintendent of Police,
Gadchiroli.

Respondents

Shri A.G.Hunge, Id. Advocate for the applicant.

Shri A.P.Potnis, Id. P.O. for the Respondents.

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

JUDGMENT

Judgment is reserved on 27th July, 2023.

Judgment is pronounced on 04th Aug., 2023.

Heard Shri A.G.Hunge, ld. counsel for the applicant and Shri A.P.Potnis, ld. P.O. for the Respondents.

2. The applicant, who is holding the post of Mechanic Police Hawaldar, has impugned order of his transfer dated 13.06.2023 (A-5) from Gadchiroli to Nagpur City, pursuant to which he was relieved by order dated 23.06.2023, on the ground that it is passed in violation of G.Rs. dated 15.12.2004 (A-6) and 09.04.2018.

3. The applicant has relied on disability certificate (A-1) dated 21.01.2019 issued by the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India. This certificate states:-

- "A. He is a case of Locomotor Disability.*
- B. The diagnosis in his case is O/C SPINE D8-D9.*
- C. He has 45% (in figure) forty five percent (in words) permanent in relation to his (part of body) as per guidelines (to be specified)."*

4. The applicant has further relied on representation dated 16.05.2023 (A-2) made by him for retention at Gadchiroli.

5. The applicant has also relied on G.R. dated 15.12.2004 (A-6) which states:-

“आता या अनुषंगाने सुधारित सुचना देण्यात येत आहेत की, शासकीय सेवेतील अपंग कर्मचा-यांच्या बदल्या शासनाने दि.१६.१.२००४ रोजी तसेच दिनांक २ जुलै २००४ रोजी प्रख्यापित केलेले अध्यादेश / बदल्यांचे नियम, यातील तरतुदीस बाधा

येणार नाही या अटीचे अधीन राहून त्यांच्या राहत्या ठिकाणाजवळील कार्यालयात पदांची उपलब्धता आणि प्रशासकीय सोय लक्षात घेवून करता येतील.”

6. Reliance is also placed by the applicant on G.R. dated 09.04.2018. It states:-

“जे शासकीय कर्मचारी स्वतः अपंग आहेत :- अपंग व्यक्ती (समान संधी, संपूर्ण सहभाग व हक्कांचे संरक्षण) अधिनियम १९९५ व या संबंदात शासनाने वेळोवेळी निर्गमित केलेल्या आदेशानुसार जे कर्मचारी अपंग आहेत व यासंदर्भात ज्यांनी जिल्हा शल्य चिकित्सक तथा सक्षम प्राधिकाऱ्याचे प्रमाणपत्र दि. ३० एप्रिल पूर्वी बदली प्राधिकाऱ्याकडे सादर केल्यास त्यांची प्रशासकीय सोयीनुसार व पद उपलब्धतेनुसार त्यांच्या सोयीच्या ठिकाणी बदली करण्यात यावी”

7. As per Section 2 (i)(v) of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 locomotor disability is a disability under the Act.

8. On the aforesaid grounds and submissions the applicant prays for quashing the impugned order of transfer dated 13.06.2023 (A-5).

9. The application is opposed by respondent no. 2 on the following grounds. From 04.09.2007 to 03.06.2016 the applicant worked as Police Constable and from 04.06.2016 to 13.06.2023 he worked as Police Head Constable, at Gadchiroli. By order dated 23.06.2023 he was relieved to join on his transferred post. G.R. dated 15.12.2004 contains only guidelines which are flexible. By G.R. dated 30.05.2023 deadline to effect Annual General Transfers for the year 2023 was extended to

30.06.2023. The impugned order was passed within this extended deadline. The applicant was due for transfer. The impugned order was passed keeping in mind administrative convenience.

10. G.R. dated 15.12.2004 states that persons suffering from disability as described in the Act of 1995 shall be posted at a place which is near to ordinary place of residence of such employee but while considering the question of accommodating any employee as per the G.R., other relevant G.Rs., Rules regulating transfers, availability of vacancies and administrative convenience shall also be taken into account. G.R. dated 09.04.2018 lays down that the concerned employee shall produce before the transferring authority disability certificate issued by the competent authority before 30th of April. This was not done by the applicant. There is nothing on record to show that the impugned order was malafide. Under such circumstances no interference is warranted. Hence, **the O.A. is dismissed with no order as to costs.**

(Shri M.A.Lovekar)
Member (J)

Dated :- 04/08/2023.
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 : 04/08/2023.
and pronounced on

Uploaded on : 07/08/2023.