

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NOS. 409 & 410 OF 2018
(Subject :- Transfer)**

ORIGINAL APPLICATION NO.409 OF 2018

DISTRICT : Nandurbar

Umesh S/o Jagatrao Bhadane,)
Age:49 years, Occ.: Service as)
Agriculture Supervisor at)
Kalambu-1, Tq. Shahada,)
Dist. Nandurbar,)
R/o 3, Vardhaman Nagar,)
Nandurbar, Tq. & Dist. Nandurbar.)...**Applicant**

V E R S U S

1. The State of Maharashtra.)
Through the Secretary to the)
Government of Maharashtra in)
Agriculture Department, Mantralaya,)
Fort, Mumbai.)
(Copy to be served on Chief)
Presenting Officer, Maharashtra)
Administration Tribunal,)
Mumbai Bench at Aurangabad))
2. The Divisional Superintendent of)
Agriculture, Nasik Region,)
Nasik/ Chairman of Civil Services)
Committee-2, Nasik Region,)
Nasik.)
3. The Joint Director of Agriculture,)
Nasik Division,)
Old Commissioner Office)
(Ashwin Barrack), Nasik.)...**Respondents**

**Shri M.B. Bharaswadkar, learned Advocate for the Applicants.
Shri M.S. Mahajan, learned Chief Presenting Officer for the Respondents.**

With

ORIGINAL APPLICATION NO.410 OF 2018

DISTRICT : Nandurbar

Sunil s/o. Pandurang Pawar,)
Age:40 years, Occ.: Service as)
Agriculture Assistant,)
R/o. 6, Laxminarayan Nagar,)
Nandurbar, Tq. & Dist. Nandurbar.)...**Applicant**

V E R S U S

1. The State of Maharashtra.)
Through the Secretary to the)
Government of Maharashtra in)
Agriculture Department, Mantralaya,)
Fort, Mumbai.)
(Copy to be served on Chief)
Presenting Officer, Maharashtra)
Administration Tribunal,)
Mumbai Bench at Aurangabad))
2. The Divisional Superintendent of)
Agriculture, Nasik Region,)
Old Commissioner Office,)
Nasik/ Chairman of Civil Services,)
(Ashwin Barrack),)
Committee-2, Nasik Region,)
Nasik.)
3. The Joint Director of Agriculture,)
Nasik Division,)
Old Commissioner Office)
(Ashwin Barrack), Nasik.)...**Respondents**

**Shri M.B. Bharaswadkar, learned Advocate for the Applicants.
Smt. M.S. Patni, learned Presenting Officer for Respondents.**

CORAM : B.P. Patil, Member (J)

Date : 04.01.2019.

J U D G M E N T

1. The Applicants have challenged the impugned transfer order dated 31.5.2018 by which they have been transferred to Kalambu-1, Tq. Shahada, Dist. Nandurbar and Anarad Circle Kalambu-1 respectively by filing the Original Application and prayed to quash and set aside the impugned transfer order.

2. Shri Umesh Jagatrao Bhadane (Applicant in O.A.No.409 of 2018) had joined the services as Agriculture Assistant under the Respondent authorities in the year 1996. In the year 2011 he was promoted as Agriculture Supervisor. He was working at Khandbara-1, Tq. Navapur, Dist. Nandurbar. At the time of general transfer of the year 2018, he had submitted the places of his choice for transfer as he was due for transfer. His wife was suffering from Cancer and therefore he has prayed to post him at place of his convenience in order to take care of his ill wife. It is his further contention that he had worked in Naxalite area and therefore he is entitled to get posting at the place of his choice in view of the policy decision taken by the Government by G.R. dated 9.4.2018. But the Respondents have not considered preferences given by him and transferred him and posted at Kalambu-1, Tq. Shahada, Dist. Nandurbar. It is his

further contention that the impugned transfer order is against the guideline issued in the G.R. dated 9.4.2018 and against the policy decision of the Government and therefore, he has challenged the impugned transfer order by filing present O.A. It is his further contention that he has made representation with the Respondents and requested to post him at the vacant place of his convenience so that he can take care of his ill wife. The Respondent has not considered the request of the Applicant and therefore he filed the present O.A.

3. Shri Suil Pandurang Pawar (Applicant in O.A.No.410 of 2018) has joined the services as Agriculture Assistant with the Respondents. He was serving at Khandbara-1, headquarter Zamatyawad Tq. Navapur. He was due for transfer at the time of general transfer of the year 2018. Therefore, he submitted option form giving places of his choice. He has also requested the Respondents to give choice posting on the ground that he had worked at Naxalite and difficult area. He has requested the Respondents for transfer on the ground that his brother is suffering from Mental Retardation and he is the only person to take care of his brother. He has also requested the Respondents to consider his convenience and to post him at the place of his choice, but the Respondents has not considered his request and transferred and posted him at Kalambu-1. It is his contention that the impugned order has been issued by the Respondents in violation of the guidelines given in the G.R. dated 9.4.2018 and the policy decision of the government. Therefore, he has challenged the impugned order by filing the Original Application and requested to quash and set aside the said order.

4. The Respondent Nos.2 and 3 have filed their affidavit-in-reply in both the matters and resisted the contention of the Applicants. It is their contention that the impugned orders have been issued by the Respondents on the basis of recommendation of the Civil Services Board (C.S.B.). The Respondents had considered the request of the Applicants before effecting the transfer and also considered their convenience and thereafter they have been posted at nearest place. It is their contention that there were complaints against the Applicant Shri Umesh Bhadane regarding corruption and misconduct and enquiry is pending against him. Therefore, he has been transferred from the present place. It is their further contention that the Applicants are serving at Khandbara-1 since six years and five months and therefore they are due for transfer. The Transfer has been made in view of the policy decision taken by the Government and as per the guideline given in the G.R. dated 9.4.2018.

5. It is their further contention that Shri Umes Jagatrao Bhadane (Applicant in O.A.No.409 of 2018) is serving in the Navapur Taluka since beginning i.e. more than 20 years and he was serving at Khandbara -1, Tahsil- Navapur from six years and five months and therefore he was due for transfer at the time of general transfer of the year 2018. Besides that, complaints were received against the Applicant regarding corruption and an enquiry was pending against him. Considering the said facts and the long stay of the Applicant at the same place i.e. in the Navapur Taluka and considering the difficulties of the Applicant, the Respondents decided to transfer him from Khandbara-1 and posted them at Kalambu -1 i.e. 90 k.m. away from his native

place. It is their further contention that considering the family problems and the convenience of the Applicant, he has been transferred. Therefore, there is no violation of the Government guidelines given in the G.R. dated 09.04.2018 and policy decision of the Government. The impugned order has been issued in view of the provision of the Transfer Act, 2005. Therefore, Respondents prayed to reject the Original Application.

6. It is their further contention that the Shir Sunil pandurang Pawar (Applicant in O.A.No.410 of 2018) was serving at Khandbara-1 since beginning and he was due for transfer. He has submitted the option regarding the places of his choice for transfer and the Respondents have considered his request on the basis of the recommendation of the Civil Services Board (C.S.B.) and thereafter issued the impugned order transferring the Applicant to Kalambu -1. It is their contention that the Applicant had given option of Anarad, Tq. Shahada, Dist. Nadurbar in his form. The said village is 46 k.m. away from his native place while his earlier place of posting is 110 k.m. away from his native place. It is their contention that the Applicant has been transferred at the place of his choice as per his convenience and option given by him and there is no illegality in the impugned transfer order. Therefore, they prayed to dismiss the Original Applications.

7. I have heard Shri M.B. Bharaswadkar, the learned Advocate for the Applicants, Shri M.S. Mahajan, the learned Chief Presenting Officer for the Respondents in O.A.No.409 of 2018 and Smt. M.S. Patni, the learned Presenting Officer for the Respondents in O.A.No.410 of 2018.

8. Admittedly, Shri Umesh J. Bhadane (Applicant in O.A.No.409 of 2018) joined the services as Agriculture Assistant with the Respondent from the year 1996. He was promoted as Agriculture Supervisor in the year 2011. He was working at Khandbara -1 at the time of impugned order. There is no dispute about the fact that his wife is suffering from Cancer and at the time of general transfer, the Respondent considered his request and posted him at nearest place as per his convenience and according to the place of his choice submitted by him. Admittedly, his wife is serving as Teacher at Khandbara, Tq. Navapur, Dist. Nandurbar. Admittedly, the complaint has been filed against the Applicant regarding alleged corruption while working at Khandbara. Admittedly, preliminary enquiry has been conducted in the said matter. Admittedly, the Applicant is serving in Navapur Taluka since the year 1996. He has completed his normal tenure at the place i.e. at Khandbara and he is serving there since six years and five months and he was due for transfer at the time of general transfer of the year 2018.

9. Admittedly, Shri Sunil Pandurang Pawar (Applicant in O.A.No.410 of 2018) joined his services as Agriculture Assistant and post at Khandbara-1, Tq. Navapur, Dist. Nandurbar. He has completed tenure of six years and five months and 14 days at Khandbara and he was due for transfer at the time of general transfer of the year 2018. The Respondents have no dispute about the fact that the Applicant's brother is suffering from Mental Retardation. Admittedly, the mother of the Applicant is 75 years order. There is no dispute about the fact that the Applicant has given the places of his

choice while submitting option form for transfer. Admittedly, Anarad, Tq. Shahada is one of place of his choice.

10. Learned Advocate for the Applicant has submitted that the Government issued G.R. dated 9.4.2018 and took policy decision to consider the convenience of the employees who are suffering from disease or whose near family member is suffering from disease and transfer him/her at the place of his convenience. The Government also took decision to transfer the employee, who worked at Naxalite affected area or Tribal area i.e. "difficulty area", at the place of his choice. He has submitted that both the Applicants were serving in the Naxalite and Tribal Area. Their family members are suffering from Cancer and Mental Retardation and therefore, they requested the Respondents to transfer them at the place of their choice. He has also submitted that both the Applicants had submitted the places of their choice. But the Respondents had not considered their request and illness of their family members and transferred them at Kalambu-1. He has submitted that both the Applicants have not been transferred at the places of their choice and therefore it causes inconvenience to them and their family members and also it causes difficulties to the Applicants in taking care of their family members. Therefore, he prayed to allow the O.As. and to quash and set aside the impugned transfer order. He has submitted that the some places of choice of the Applicants are still vacant but the Respondent has not posted the Applicants there and therefore, he prayed to direct the Respondents to consider the choices given by the Applicant and post them there in view of the guidelines given in the G.R. dated 9.4.2018.

11. Learned C.P.O. and learned P.O. for the Respondents have submitted that the Respondents have effected the transfer of the Applicant by following provision of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short Transfer Act,2005) as well as guidelines given in the G.R. dated 9.4.2018. Both the Applicants were serving at Khandbara-1 for more than six years. They have completed their tenure and they were due for transfer. Shri Umesh J. Bhadane was serving at Navapur Taluka since 20 years. There was a complaint of corruption against him. Preliminary enquiry was conducted in the matter and the matter is still under consideration. Therefore, he has been transferred from Navapur Taluka and posted at Kalambu on account of administrative exigency. He has submitted that while making said transfer, the Respondents had considered the convenience of the Applicant and his difficulties and family problems. He has submitted that distances between Khandbara and Kalambu is 80 k.m. and therefore, it will be more convenient place to the Applicant to take care of his ill wife.

12. Learned P.O. for the Respondents has further submitted that in case of Shri Sunil P. Pawar, the Respondents considered his request and posted at the place of his choice. She has submitted that the convenience of the Applicant has also been looked in to while making transfer of the Applicant. She has submitted that the Respondents have considered the family problems of the Applicant and illness of his family member while effecting the transfer. She has submitted that distance between native place of the Applicant and village Anarad is 46 k.m. while

his previous place of posting is 110 k.m. away from his native place. The Applicant has been posted at the place which is near to his native place and therefore, it will be more convenient place for him. She has submitted that in case of Shri Sunil P. Pawar, the Respondents have taken care of the guidelines issued in the G.R. dated 9.4.2018. She has submitted that transfer of the Applicant has been made by following provisions of Transfer Act and on account of Administrative Exigency and therefore, there is no illegality in impugned transfer order.

13. Learned C.P.O. and learned P.O. for the Respondents have submitted that transfer of the both Applicants have been made on the recommendation of the Civil Services Board (C.S.B.) and after counseling them and therefore, he prayed to reject the Original Application.

14. I have gone through the documents on record. On perusal of the record it reveals that Shri Umesh Bhadane (Applicant in O.A.No.409 of 2018) was serving at Navapur Taluka since beginning i.e. from 1996. He was working at Khandbara-1 since more than six years. He has completed tenure of six years six months and 22 days at Khandbara. He was due for transfer at the time of general transfer of the year 2018. He has submitted option form and submitted places of his choice for his posting at the time of his transfer and requested the Respondents to transfer him at the place of his choice on account of illness of his wife. His request was not accepted by the Civil Services Board. The Civil Services Board has considered the fact that the Applicant was serving at Navapur Taluka for more than 20 years. There was a complaint of the corruption against Applicant and

an enquiry was going on. Therefore on account of administrative exigency, he has been transferred to Kalambu -1 which is at the distance of 80 KM from his native place. The Respondents considered the convenience of the Applicant while effecting his transfer. The Applicant can take care of his ill wife from that place. It is also material to note that the wife of the Applicant is serving as Teacher at Khandbara and she is discharging her duties. Considering all these facts and convenience of the Applicant and after counseling him, the impugned order has been issued by the Respondents. Therefore, in my view there is no violation of guidelines given in the G.R. dated 9.4.2018. The Respondents transferred the Applicant because of pending enquiry against him. The impugned order has been issued on the recommendation of the Civil Services Board and on administrative exigency. Therefore, in my view there is no illegality in impugned order. Hence, no interference is called in the said impugned order.

15. In case of Shri Sunil P. Pawar (Applicant in O.A.No.410 of 2018), record shows that he was serving at Khandbara since more than six years. The Civil Services Board has considered his request, illness of his family member and convenience and recommended to transfer him at Anarad, (Kalambu -1). Distance between Anarad and his native place is 46 km which is nearer to his earlier place of posting i.e. Khandbara. Option form submitted by the Applicant shows that the Applicant has given place of his choice for transfer at Anarad which is at Sr.No.9. Considering his choice, the Respondents posted him at Anarad and therefore, in my view there is no illegality in the impugned order. The Respondents followed the

guidelines given in the G.R. dated 9.4.2018 and after counseling the Applicant and considering choice of the Applicant, his convenience and illness of his brother and administrative exigency, posted the Applicant at Anarad in Kalambu circle. Therefore, in my view there is no illegality in the impugned transfer order.

16. In view of the aforesaid discussion, both the transfer orders by which the Applicants have been transferred from Khandbara to Kalambu and Anaradh respectively have been issued in view of the provision of Transfer Act and as per the guidelines given in the G.R. dated 9.4.2018. There is no illegality in the impugned transfer orders. Therefore, no interference is called in the impugned transfer orders. There is no merit in the O.As. Consequently, Original Applications deserve to be dismissed.

17. In view of the discussion in the aforesaid paragraphs, the Original Application Nos.409 of 2018 and 410 of 2018 stand dismissed. No order as to costs. .

Place:- Aurangabad
Date :- 04.01.2019
Sas

Sd/-
(B.P. Patil)
Member (J)