

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
NAGPUR BENCH AT NAGPUR.
ORIGINAL APPLICATION NO. 515 of 2015

Sau. Warsha Dasaram Sawarbandhe,
Aged about 57 years,
Occ. Service,
R/o 99, Farmland, Ramdaspath, Nagpur,
Tah. and Distt. Nagpur. -----

APPLICANT

VERSUS

1. The Director, Directorate of Health Services,
" Health Bhavan, Saint George Hospital Compound,
P. D'emelo Road, Mumbai.
2. The Dy. Director of Health Services,
Shradhanand Peth, Nagpur.
3. The Chief Administrative Officer, (CAO, Dy.
Director Office, Mata Kacheri Campus,
Nagpur.
4. Smt. Sushma Banik, Administrative Officer,
(AO), Daga Memorial Hospital,
Gandhibagh, Nagpur.
5. The State of Maharashtra through its
Secretary, Deptt. Of Health, Mantralaya,
Mumbai. -----

RESPONDENTS

Shri A.D. Dangore, Counsel for Applicant.
Shri A. M. Ghogare, P.O. for Respondents .

CORAM : B. Majumdar : Vice Chairman
DATE : 10th March , 2016

ORDER

The applicant, a Laboratory Technician in the Directorate of Medical Education, has filed this O.A., as she is aggrieved that she has not been transferred to Nagpur. She is due to retire on 31/8/2016.

2. Vide order dtd. 30/3/2013, the applicant was transferred from Nagpur to Pulgaon. She joined on 24/6/2013. She filed O.A. No.380/2013 challenging the order of transfer. On 20/1/2014, the Tribunal disposed of the O.A. by granting liberty to the applicant to apply for transfer to Nagpur on health grounds.

3. On 14/2/2014, the applicant submitted a representation for transfer to Nagpur. On 30/5/2015, 3 Laboratory Technicians were transferred to Nagpur. The applicant is not among them. On 31/12/2015 she sent another representation for transfer to Nagpur in place of Smt. Kukade (Deoghare), who was to proceed on voluntary retirement. On 27/1/2016 the Tribunal in this O.A., by way of

interim order, directed the respondents to consider the applicant's representation within 10 days in the light of the Tribunal's order dtd. 20/1/2014. On 4/2/2016 the Dy. Director of Health Services , Nagpur (R/2) forwarded the applicant's representation to the Director of Health Services (R/1) along with his remarks giving various reasons as to why the applicant's request cannot be accepted.

4. In the O.A. the applicant has reiterated the same grounds for seeking transfer at Nagpur as she had mentioned in O.A. No.380/2013, i.e., she has health problems, and she was required to look after her retired husband and daughter who is doing her post MBBS internship at Nagpur . She also submits that vacancies are available at Nagpur for adjusting her.

5. The respondents in their reply submit that the applicant has put in 1 ½ years' service at Pulgaon whereas there are other employees who have put in considerable longer periods of time, mostly in the Naxalite/Tribal areas.

Hence their cases for transfer to Nagpur have to be granted priority. In respect of 3 Laboratory Technicians who were transferred to Nagpur vide order dtd. 30/5/2015, the respondents state that Ku. N.H. Ambade had put in more than 6 years' service in the Naxalite/Tribunal area of Rajegaon, Shri D.P. Hadap had been posted at Gondia since 3/12/2007 and Ku. L.V. Joshi had also completed more than 6 years at her present place of posting. Thus, all these Laboratory Technicians had completed more than 6 years at one station whereas the applicant had completed only 1 ½ years' service at Pulgaon. Preference therefore was required to be given to these employees vis-à-vis the applicant.

6. Shri A.D. Dangore, Id. Counsel for the applicant, reiterated the applicant's submissions, i.e., she has genuine and serious grounds for seeking transfer to Nagpur, she is at the fag end of her service and vacancies are available to grant her prayer for transfer to Nagpur.

7. Shri A.M. Ghogare, Id. P.O. also reiterated the submissions of the respondents . With regard to the applicant's request for transfer in place of Smt. Kukade, on her voluntary retirement, he referred to the communication dtd. 4/2/2016 from R/2 to R/1 explaining in details the various administrative problems due to which the applicant cannot be posted at Nagpur.

8. I find that the Tribunal while disposing of the O.A. No.380/2013 filed by the applicant, had considered the grounds on which she had sought transfer to Nagpur. The following observations of the Tribunal in this regard are relevant :-

Para 5 : *“ The other grounds raised by the applicant are like; she is the patient of diabetes, hypertension and arthritis, her husband has retired and needs a personal care. Her daughter who has passed M.B.B.S. is an intern in Government Medical College and Hospital, Nagpur. Although, these personal problems which the applicant has, may be a cause for*

discomfort and great inconvenience to her, but certainly cannot be the ground to cancel her transfer which otherwise appears to be purely on administrative ground."

9. The respondents in their reply have stated that as other employees have put in long years, i.e., more than 6 years' service in their present postings and that too, mostly in the Tribal/Naxalite areas, their cases for transfer at Nagpur had to be granted priority over that of the applicant who has put in only 1 ½ years' service at Pulgaon. With regard to the applicant's representation dtd. 31/12/2015 for transferring her in place of Smt. Kukade, who was proceeding on voluntary retirement, R/2 in his communication dtd. 4/2/2016 has referred to the cases of Shri R.C. Gaikee and Shri Malesh Ghare who have applied earlier to the applicant for transfer to Nagpur, having put in more than 6 years at their present headquarters and who have also filed similar O.As. before the Tribunal. Their cases are therefore required to be granted

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priority . The penultimate para of the communication states as follows :-

“ त्यामुळे श्रीमती वर्षा सावरबांधे , प्रयोगशाळा तंत्रज्ञ ह्यांना वरील कर्मचा-यांची एकाच मुख्यालयातील कर्तव्य जेष्ठता डावलून बदली दिल्यास यापूर्वीच न्यायप्रविष्ट असलेल्या प्रकरणात अधिक गुंतागुंती निर्माण होईल. तसेच श्रीमती वर्षा सावरबांधे ह्या सर्वसाधारण बदलीसत्र २०१६ नंतर सेवानिवृत्त होणार असल्याने त्यांना सदर पदावर बदली दिल्यास त्या अल्पसा कालावधी सदर रुग्णालयात सेवा देऊ शकतील त्यानंतर सदरचे रिक्त पदामुळे रुग्णालयातील सेवा विस्कळीत होऊन रुग्णसेवेवर विपरीत परिणाम होण्याची शक्यता टाळता येत नाही. अल्पशा कालावधीत बदली दिल्यास निवृत्ती प्रकरण तयार करण्यांस अडचण निर्माण होऊन सेवानिवृत्तीमुळे मिळणा-या लाभाच्या अदायगीत गुंतागुंत निर्माण होऊन विलंब होईल. अदायगीच्या विलंबास श्रीमती सावरबांधे ह्यां पुन्हा विभागास जबाबदार धरून प्रकरण न्यायप्रविष्ट करण्यांस चुकणार नाही. ”

10. From the above, I find that it is beyond dispute that health and other personal grounds do not justify the applicant's request for transfer. The Tribunal had only directed that her case should be considered sympathetically . However, the respondents are required to decide her case as

per administrative convenience keeping in view similar applications for transfer to Nagpur filed by other employees, who had put in long tenures at their present places of posting. I am therefore satisfied that the respondents have cogent reasons not to grant priority to the applicant for transfer to Nagpur vis-à-vis these employees. Thus, the O.A. is without any merit and stands rejected with no order as to costs.

sd/-

(B. Majumdar)
Vice-Chairman.

Skt.