

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

ORIGINAL APPLICATION NO.515 OF 2018

(Subject :- Transfer)

ORIGINAL APPLICATION NO.515 OF 2018

DISTRICT : Osmanabad

Shri Dayanand S/o Pandurang Chavan)
Age: Major, Occ. Head Clerk)
Having Official address as)
District Joint Registrar Co-operative Office,)
Tq. & Dist. Osmanabad.)...**Applicant**

V E R S U S

1. The State of Maharashtra)
Through the Secretary,)
Co-operative Department)
Mantralaya, Mumbai.)
2. The Commissioner of Co-operative &)
Registrar of Co-operative Societies)
2nd Floor, New Central Building)
M.S., Pune, Dr. Babasaheb Ambedkar)
Road, Pune, Maharashtra.)
3. The Divisional Joint Registrar)
Co-operative Societies Latur.)
4. S.P. Mali,)
C/o. District Joint Registrar,)
Co-operative Office, Latur)
Tq. & Dist. Latur.)...**Respondents**

**Shri Vishal R. Sarosiya, the learned Advocate holding for Shri
Ganesh Gadhe, the learned Advocate for the Applicant.**

Smt. S.K. Ghate, the leaned Presenting Officer for the Respondents.

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

Date : 04.01.2019.

J U D G M E N T

1. The Applicant has challenged the impugned transfer order dated 30.5.2018 issued by the Respondent No.3 transferring the Applicant from the office of Divisional Joint Registrar of Co-operative Society Latur to the office of District Deputy Registrar of Co-operative Society Osmanabad and has prayed to quash and set aside the impugned order by filing the Original Application.

2. The Applicant joined on the post of Junior Clerk with the Respondent on 28.1.2004 in the office of Cotton Federation Maharashtra State at Pune. On 26.12.2011 he was promoted on the post of Senior Clerk and posted in the office of Divisional Joint Registrar at Latur. On 15.05.2015, the Applicant was further promoted as Head Clerk and posted in the office of Divisional Joint Registrar Office at Latur. He was not due for transfer at the time of general transfer of the year 2018. On 14.05.2018, the Respondent No.3 published the list of the employees who were due for transfer and directed those employees to give preference for posting by filling option form.

3. The Applicant filled form though he was not due. He requested to transfer him in the other office at Latur on the ground that his mother is suffering from paralysis. It is

contention of the Applicant that the Government of Maharashtra decided to consider the transfer cases of the employees whose parents are suffering from illness and give them posting at the place of their choice and issued the G.R. dated 9.4.2018. But the Respondent No.3 had not considered the request of the Applicant and guidelines given in the G.R. dated 9.4.2018 and issued the impugned transfer order dated 30.5.2018 transferring the Applicant from the office of Divisional Joint Registrar of Co-operative Society Latur to the office of District Deputy Registrar of Co-operative Society Osmanabad. It is contention of the Applicant that the impugned transfer order is against the guidelines issued in the G.R. dated 9.4.2018 and in violation of 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). Therefore, he filed the Original Application and prayed to quash and set aside the impugned transfer order.

4. The Respondent Nos.1 to 3 resisted contention of the Applicant by filing affidavit-in-reply. They have not disputed the fact that the Applicant was selected on the post of Junior Clerk and he was posted in the office of Director of Marketing, Maharashtra State, Pune by order dated 19.3.2018. It is their contention that the Applicant was transferred from the post of Junior Clerk, Head Office Pune to the post of Junior Clerk in the office of District Deputy Registrar, Co-operative Societies Latur and accordingly the Applicant joined the post on 03.02.2009. It is their further contention that the Applicant was promoted from the post of Junior Clerk to the post of Senior Clerk and posted in the office of Divisional Joint Registrar Co-operative Societies,

Latur by order dated 26.12.2011 and accordingly he joined the said post on 29.12.2011. They have not disputed the fact that thereafter the Applicant was promoted again on 15.5.2015 on the post of Head Clerk. It is their contention that the Applicant was working at the same head quarter i.e. at Latur since more than nine years and he was serving in the same office for two tenures of three years each i.e. six years five months and two days. The Applicant was due for transfer at the time of general transfer of the year 2018. Therefore, the Applicant has filled the option form and submitted his option regarding places of his choice where to be transferred.

5. On 17.5.2018, he submitted the application and requested to make his transfer at the place of his choice and submitted medical certificate of his mother. It is their contention that the case of the Applicant has been considered by the Civil Services Board and after considering the documents, Civil Services Board recommended to transfer the Applicant to Osmanabad from Latur. Accordingly, Respondent No.3 issued impugned transfer order dated 30.5.2018.

6. Respondents have no dispute about the fact that the Applicant had filed an application dated 02.06.2018 with the Respondent No.3 and requested to cancel his transfer or to give him permission to approach this Tribunal. In response to the said application, the Respondent No.3 informed the Applicant by communication dated 07.06.2018 that his transfer order has been issued in view of the provision of Transfer Act and G.R. issued by the Government from time to time. It is their contention that there is no violation of guidelines issued in the

G.R. dated 9.4.2018 and provision of transfer Act while issuing the transfer order of the Applicant. The Applicant was serving in the same office at the same head quarter for more than two tenures and he is serving at Latur since more than nine years. He was due for transfer and therefore his transfer was made on administrative ground. It is their further contention that there is no illegality in the impugned order and therefore they prayed to reject the O.A.

7. I have heard Shri Vishal R. Sarosiya, the learned Advocate holding for Shri Ganesh Gadhe, the learned Advocate for the Applicant and Smt. Sanjivani K. Ghate, the learned Presenting Officer for the Respondents.

8. Admittedly, the Applicant joined the services with the Respondents as Junior Clerk on 28.2.2004 at Cotton Federation Maharashtra State at Pune. Thereafter, the Applicant has been transferred from Head Office Pune to the office of District Deputy Registrar, Co-operative Societies Latur by order dated 28.1.2009 and he joined on the said post on 03.02.2009. Thereafter, he was promoted to the post of Senior Clerk by order dated 26.12.2011 and posted in the office of Division Joint Registrar Co-operative Societies, Latur. He joined his promotional post on 29.12.2011. Admittedly, on 15.5.2015, the Applicant again promoted on the post of Head Clerk in the office of Divisional Joint Registrar Office at Latur and since then he was working there. Admittedly, the Applicant was at Latur since 03.02.2009. The Applicant was due for transfer at the time of general transfer of the year 2018 as he had completed his two tenures at Latur in the same office. Admittedly, the Applicant filed the option form

and submitted his options regarding places of his choice to transfer. Admittedly, the Applicant had requested the Respondents to retain him at Latur in other office due to the illness of his mother as per the guidelines given in the G.R. dated 09.04.2018. The Applicant has been transferred to Osmanabad by the impugned order.

9. Learned Advocate for the Applicant has submitted that the Respondents had not followed the guidelines given in the G.R. dated 09.04.2018 while effecting the transfer of the Applicant. They have not considered the request of the Applicant to transfer him in other office at Latur on account of ill health of his mother. He has submitted that the Applicant has produced medical certificate regarding illness of his mother, but the Respondents had not considered the said fact and transferred the Applicant. It is in violation of the guidelines given in the G.R. dated 09.04.2018. It causes inconvenience to the Applicant. He has submitted that it would be difficult for the Applicant to take care of his ill mother from Osmanabad and therefore he prayed to quash and set aside the impugned transfer order.

10. Learned P.O. for the Respondents has submitted that the Applicant is serving at Latur since 03.02.2009. He is serving in the same office since the year 2011. He has completed two tenures of the posting in the same office. She has also submitted that the Applicant has given option regarding the places of his choice. The Applicant has given option at Osmanabad and Respondents considered the said choice given by the Applicant and issued the impugned order transferring and posting the Applicant at the place of his choice. He has submitted that there

is no violation of the guidelines given in the G.R. dated 09.04.2018 and therefore, there is no illegality in the impugned order. He has submitted that the Applicant has been transferred from Latur to Osmanabad on account of administrative exigency and therefore, the Respondents supported the impugned transfer order and prayed to reject the Original Application.

11. On perusal of record it reveals that the Applicant is serving at Latur since 03.02.2009. He is serving in the same office i.e. in the office of Division Joint Registrar Co-operative Societies, Latur since 29.12.2011. He has completed two tenures of posting in the same office and he was due for transfer at the time of general transfer of the year 2018.

12. The Respondent No.3 had called for necessary information from the employees who are due for transfer and also called options regarding places of their choice where they desire to be transferred. The Applicant had submitted his option form along with application which is at page no.111. On perusal of the same it reveals that Applicant has given ten options. First four places of choice of the Applicant are in Latur District while rests of the choices are in Osmanabad and Beed District. The Applicant has given place of his choice at Osmanabad in the office of District Deputy Registrar of Co-operative Society Osmanabad and it at Sr.No.7. The Applicant sought his transfer at other offices at Latur on account of ill health of his mother. The request of the Applicant was placed before the Civil Services Board (C.S.B.). The Civil Services Board had considered the request of the Applicant, record and the options given by the

Applicant and thereafter decided to transfer the Applicant from Latur to Osmanabad.

13. The minutes of the meeting of the Civil Services Board dated 28.05.2018 are also placed on record at page nos.124 to 134. On perusal of minutes, it is crystal clear that the guidelines given in the G.R. dated 09.04.2018 have been considered and followed by the Civil Services Board. Individual case of the Applicant has also been considered and thereafter the Civil Services Board recommended the transfer of the Applicant from Latur. The Civil Services Board has followed guidelines given in the G.R. dated 09.04.2018 and therefore, in my view there is no illegality in the recommendation of the Civil Services Board as well as impugned order issued by the Respondent No.3 regarding transfer of the Applicant.

14. It is material to note here that service record of the Applicant produced by the Respondents which is at page No.182 shows that the Applicant is resident of village Chikhali Taluka and District Osmanabad. By impugned order the Applicant has been transferred at Osmanabad. Therefore, in my view the said posting of the Applicant at Osmanabad is most convenient. Therefore, it cannot be said that the impugned order of the Applicant causes inconvenience to the Applicant. Therefore, I do not find any substance in the submission advanced by the learned Advocate for the Applicant in that regard. The impugned order has been issued as per the guidelines given in the G.R. dated 09.04.2018. There is no violation of the provision of the Transfer Act. Therefore, no interference is called for in the impugned transfer order. There is no merit in the Original

Application. Consequently, the Original Application deserves to be dismissed.

15. In view of the discussion in the aforesaid paragraphs, the Original Application stands dismissed with no order as to costs.

Sd/-

Place:- Aurangabad

Date :- 04.01.2019

Sas

(B.P. Patil)
Member (J)