

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 588 /2017 (S.B.)

Sanjay S/o Vishwanath Kayande,
Aged about 45 years, Occ. Service,
R/o Deulgaon Raja, Tah. Deulgaon Raja
District- Buldhana.

Applicant.

Versus

- 1) State of Maharashtra,
Through its Secretary, Department
of Revenue & Forest, Mantralaya
Mumbai – 32.
- 2) Chief Conservator of Forest,
(Regional), having its office at
Camp, Amravati-444602.
- 3) Deputy Conservator of Forest,
Buldhana, having its office at
Ranicha Bagicha, Chikhali Road,
Buldhana, Tah. And District-
Buldhana.
- 4) Range Forest Officer,
Deulgaon Raja, having its office at
Jafrabad Road, Deulgaon Raja, Tah.
Deulgaon Raja, District Buldhana.

Respondents

Shri S.U.Bhuyar, Id. Advocate for the applicant.

Shri A.M.Ghogre, Id. P.O. for the respondents.

Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).

JUDGMENT

(Delivered on this 31st day of October, 2017)

Heard Shri S.U.Bhuyar, learned counsel for the applicant and Shri A.M.Ghogre, learned P.O. for the respondents.

2. The applicant was initially appointed as a Forest Guard in 1993 by the Respondent no. 3. Vide order dated 30/05/2015, he was promoted to the post of Forester and was posted at Sindkhed Raja under Range Deulgaon Raja, District Buldhana. Due to complaints received from local Politicians on 27/02/2017 & 28/02/2017, the applicant was kept under suspension by the Respondent no. 2, vide order dated 08/03/2017. No enquiry was made in this regard. Those complaints were false.

3. Vide order dated 10/04/2017, the Respondent no. 2 revoked the suspension of the applicant, but instead of re-posting him at Sindkhed Raja under the Range Deulgaon Raja, Dist Buldhana, he transferred the applicant to Anjani Zadap, Chaurakund Range, Sipna Wild Life Division, Amravati. Thus, the transfer of the applicant to Anjani Zadap, Chaurakund Range, Sipna Wild Life Division, Amravati is by way of punishment and, therefore, the applicant has challenged the impugned order of his transfer.

4. The Respondents no. 2 to 4 have filed reply affidavit and admitted the fact that the applicant was transferred due to complaints. The Respondents have taken the benefit of the G.R. dated 20/04/2013 (Annexure-R-1) whereby instructions have been issued by the Government not to re-post the suspended employee at the same post on reinstatement. It is stated that in view of this G.R. the applicant has been transferred at Anjani Zadap, Chaurakund Range, Sipna Wild Life Division, Amravati.

5. The Id. Counsel for the applicant has placed reliance on the Judgments as follows:-

- (i) STATE OF MAHARASHTRA & ORS. VS. DR. (MS.) PADMASHRI SHRIRAM BAINADE & ORS., REPORTED IN 2015(2) MH.L.J., 679.
- (ii) RAMAKANT BABURAO KENDRE VS. STATE OF MAHARASHTRA & ANOTHER, REPORTED IN 2012 (1) MH.L.J., 951.
- (iii) SANJEEV BHAGWANRAO KOKIL VS. STATE OF MAHARASHTRA & ORS., REPORTED IN 2013 (2) MH.L.J., 107.

6. The Id. Counsel for the applicant submits that the impugned order shows that the applicant had been transferred on the basis of the complaints and, therefore, the transfer order is by way of punishment.

7. The Id. Counsel for the applicant also invited my attention to the representation filed by the applicant to the competent authorities on 17/04/2017, whereby the applicant requested that he may be transferred at Khamgaon, Motada Varthul or any of the vacant post at Khamgaon at Buldhana Range. He has personal reasons for his transfer, such as ill health of his father and educational problem of his daughter, who is taking education in 12th Std. in Science faculty.

8. It is true that as per the G.R. dated 20/04/2013, the Government has taken decision not to re-post the employees who are under suspension at the same post after revocation of suspension and, therefore, the applicant's demand that he shall be re-posted in the same post after revocation cannot be accepted. It will also not be in the interest of applicant to re-post him at the same place after revocation. The Id. P.O. submits that Departmental Enquiry is proposed against the applicant, however, it does not mean that the applicant shall be reinstated on transfer out of district merely because some complaints were filed against him, without making enquiry in the said complaints. In order to avoid embarrassment to the applicant and also interference in the department enquiry, applicant's head quarter can be changed. The applicant did not place on record any material to show that there were malafides on the part of Respondents authorities to post him in Amravati

District and, therefore, the applicant's transfer after reinstatement cannot be said to be illegal, in view of the G.R. dated 20/04/2013.

9. The Respondents have not considered the applicant's representation dated 17/04/2017. In my opinion the Respondents authorities should have considered the said representation with a proper perspective and should have taken into consideration the ground made out in the said representation and particularly the fact that the applicant's daughter is taking education in 12th Std. and should have to find out the possibility of posting. The applicant requested to post him at Khamgaon in Buldhana District or at the place of choice mentioned in the representation. The Respondents ought to have considered the same on its own merits.

10. In view of the discussion in foregoing paras, I passed the following order:-

ORDER

1. The O.A. is partly allowed.
2. The Respondent no. 2 is directed to consider the case of the representation filed by the applicant dated 17/04/2017 on its own merits. Decision on his representation shall be taken within one month from the date of this order and shall be communicated to the applicant in writing. The applicant's

request, however, for quashing and setting aside the transfer order dated 10/04/2017, issued by Respondent no. 2 is rejected.

3. No order as to costs.

(J.D. Kulkarni)
Vice-Chairman (J).

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