

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 682/2021**

Rajesh S/o OmkarraoPatil,  
Aged about 37 years, Occu.: Service,  
R/o Gajanan Township, Kathora road,  
Amravati, Tah. & Dist. Amravati

**Applicant.**

**Versus**

- 1) The State of Maharashtra, through its  
Principal Secretary, Higher &  
Technical Education Department,  
Mantralaya, Mumbai-32.
- 2) The Director, Directorate of  
Libraries (M.S.), Fort Mumbai.

**Respondents**

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Shri S.N.Gaikwad, Ld. counsel for the applicant.  
Shri M.I.Khan, Ld. P.O. for the respondents.

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

**Dated: - 21<sup>th</sup> March 2022.**

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**JUDGMENT**

**Judgment is reserved on 11<sup>th</sup> March, 2022.**

**Judgment is pronounced on 21<sup>th</sup> March, 2022.**

Heard Shri S.N.Gaikwad, learned counsel for the applicant and Shri M.I.Khan, Ld. P.O. for the Respondents.

2. The applicant has impugned the order dated 9.8.2021 (Annexure A-3) passed by respondent no.1 transferring him from Amravati to Jalna.

By order dated 14.7.2016 (Annexure A-1) the applicant was transferred to Amravati from Washim.

Thus, the impugned order was passed after the applicant had completed his statutory tenure of 3 years at Amravati.

Pursuant to the impugned order respondent no.2 issued movement order dated 9.8.2021 (Annexure A-4). As per G.R. dated 29.7.2021 the State Government was permitted to transfer only 25% employees based on the recommendation of Civil Services Board.

The G.R. dated 9.4.2018 prescribes the steps for effecting transfers. One such important step is counselling of employee before passing the order of transfer. (G.Rs. dated 29.4.2018 & 29.7.2021 are collectively marked Annexure A-5).

According to the applicant his father is suffering from psychosis and receiving treatment at Amravati as reflected in medical certificate (Annexure A-6).

It is further contention of the applicant that G.R. dated 9.4.2018 was not followed since the step of counselling was dispensed with, and employees length of whose tenure was more were not transferred.

Further contention of the applicant is that the Civil Services Board had not recommended the impugned transfer, the Competent Authority did not agree with the Board and proceeded to pass the impugned order but it failed to record, reasons for its disagreement and this will vitiate the impugned order.

According to the applicant, the impugned order did not comply with the guideline contained in the Notification dated 28.4.2015 that Group-B employees shall remain in the Division for 9 years.

The applicant made a representation dated 1.3.2021 to respondent no.1 to accommodate him on a vacant post at Washim which was not accepted giving rise to this application for redressal of his grievance.

3. Reply of the respondent is at p.p.64 to 71.

Annexure R-I dated 26.3.2021 shows that places of choice for posting on transfer were called from the applicant. He had given 10 choices in which the 1<sup>st</sup> choice was Washim and the 4<sup>th</sup> choice was Jalna. It may be observed that the applicant suppressed these relevant details in the application.

Annexure R-II shows that the Civil Services Board had recommended transfer of the applicant at Washim but the Competent

Authority disagreed with it and transferred him to Jalna which was one of the choices given by him. It may be observed that the Competent Authority was justified in not accepting the recommendation of the Board in view of the following guideline contained in G.R. dated 9.4.2018 -

**ॐ त्खोज िग्कन्यह िफ्रक%**

**ह'कल ध; फदक fourh cnY; k djrluk depl&; kusvxlaj T; k tlxh l ok dsh vl y  
R; k ॐ त्खोज 'ड; rksnyh ns; kr ; m u; s ele gh vV , dkdh inkl ylxwjg.kj  
ulgh**

4. It is specifically asserted in the reply of the respondents that the process of counselling was complied with telephonically due to Covid-19 restrictions. This has not been traversed by the applicant.
5. To counter the submission of the applicant that as per Notification dated 28.4.2015 the applicant, being a Group-B employee was entitled to remain in a Division for 9 years, the respondents have relied on Notification dated 14.7.2021 (Annexure R-III). As per this Notification the period of service to be spent in a Revenue Division for Group-B employee shall be 3 years.
6. It may be mentioned that the applicant has not alleged mala fides against the respondent.

7. The respondents have relied on the judgment of the Hon'ble Bombay High Court dated 7.10.2021 in W.P.No.6539/2021 wherein it is held-

***4. Law is well settled that an order of transfer may be interdicted only if violation of statutory provisions is proved and if the person challenging the transfer order succeeds in proving mala fides.***

8. The respondents have also relied on the order dated 13.10.2017 passed by the Hon'ble Supreme Court in S.L.P. No.36717/2017 wherein it is held -

***“It is not for the employee to insist to transfer him/her and/or not to transfer him/her at a particular place. It is for the employer to transfer an employee considering the requirement.”***

9. The respondents have further relied on **‘Union of India and Another Verses Dipak Niranjn Nath Pandit (2020)** 3 Supreme Court cases 404. In this case it is held that an employee cannot claim posting as of right to place of his choice.

By applying legal principles stated above to the facts of the case in hand it can be concluded that the application is devoid of merits. Hence, the order.

**ORDER**

- (i) The application is dismissed.
- (ii) No order as to costs.

(M.A.Lovekar)  
Member (J)

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 21/03/2022.

and pronounced on

Uploaded on : 21/03/2022.