

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 744/2022(S.B.)

Mr.Ajay Kumar Shamrao Raut,
Aged about 45 years, Occ. : Service,
Wardha, Dist. WARDHA(M.S.)

Applicant.

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
Agriculture, Animal Husbandry,
Dairy Development and Fisheries,
Mantralaya Mumbai-32.
2. Commissioner of Agriculture,
Central Building 2nd Floor,
Pune-411001.
3. Divisional Joint Director of Agriculture,
Administrative Building No.2,
Civil Lines, Nagpur – 440 001.

Respondents

Shri S.C.Deshmukh, Ld. counsel for the applicant.
Shri A.M.Ghogre, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 3rd April, 2023.

JUDGMENT

Heard Shri S.C.Deshmukh, learned counsel for the applicant and Shri A.M.Ghogre, learned P.O. for the Respondents.

2. Learned counsel for the applicant has pointed out the interim order passed by this Tribunal on 20.07.2022. By this order, interim relief was granted and it was continued till today. Learned counsel for the applicant has filed representation dated 08.03.2022. It is marked Exhibit-X for identification.

3. Reply is already filed by the respondents. By consent of Advocate for applicant and learned P.O. for Respondents, matter is admitted and decided finally.

4. Case of the applicant in short is as under-

The applicant came to be transferred from Nagpur to Wardha. Thereafter, the applicant was transferred from Wardha to Gadchiroli. The transfer order dated 15.07.2022 from Wardha to Gadchiroli is now challenged before this Tribunal (Annexure A-9, P. 68). It is the case of the applicant that prior to the impugned transfer order, respondents have not considered the applicant's representation.

5. Learned counsel for the applicant has pointed out the chart at page no.26. As per this chart, the applicant was posted at Deori, District Gondiya from 26.11.2001 to 10.02.2003. Thereafter, he was transferred

and posted at Nagpur from 12.02.2003 to 31.05.2007. He was transferred and posted to Sadak Arjuni, District Gondiya from 01.06.2007 till 13.07.2009. Thereafter, he was transferred and posted to Gadchiroli from 13.07.2009 to 30.06.2013. Thereafter, he was transferred and posted to Nagpur from 01.07.2013 to 12.06.2018 and thereafter, he was transferred and posted to Wardha from 18.06.2018 to till date. Thereafter, Impugned transfer order is passed by the respondent and the applicant is transferred to Gadchiroli.

6. Learned counsel for the applicant has submitted that the applicant had worked in Naxalite areas for about 9 years. He has pointed out the Judgment of the Hon'ble Bombay High Court Bench at Nagpur in Writ Petition No.2770/2013 and submitted that as per the direction of Hon'ble Bombay High Court, Bench at Nagpur the impugned transfer order is not proper. He has pointed out the applicant's representation dated 08.03.2023. It is submitted that transfer order dated 20.07.2022 was stayed by this Tribunal.

7. Heard Shri A.M.Ghogre, learned P.O. for the respondents. The O.A. is strongly opposed by the respondents. The learned P.O., has submitted that the applicant was transferred and posted from Wardha to Gadchiroli on administrative exigency. At present, he is working at

Wardha. The impugned transfer order is made due to administrative exigency. Therefore, the O.A. is liable to be dismissed.

8. The Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.2770/2013 decided on 17.01.2014 has observed as under-

“During hearing, we find that on 4-5-2013, the corrigendum has been issued, which states that while effecting transfers on administrative grounds, employees, who have put in three years of service in naxalite areas, should not be transferred to such areas again. Petitioners have also made a representation on 14-5-2013. Advocate Shri Wathore informs that said representation is still pending. Various policy decisions/circulars noted by us supra mandate a transfer in particular proportion. These circulars do not lay down the maximum percentage of such transfers. On the contrary, in any case, the minimum percentage as prescribed i.e. 5% needs to be adhered to. Thus, there is no law or policy decision, which prohibits respondent no. 2 to transfer employees in excess of 5% out of tribal/ naxalite areas. We therefore clarify the position accordingly and respondent no. 2 to see that A employees, who have put in more than three years of service in tribal/naxalite areas, are transferred out of said areas as the employees who have put in three years service earlier in such areas, cannot be sent back to that areas. Employees continuing there in excess of three years cannot be made to suffer. Those who have never worked in tribal/naxal prone areas need to be posted there at least once in their service.”

9. The Division Bench of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.2770/2013 has observed that “employees who have put in more than three years service in Tribal/Naxlite areas, are

transferred out of said areas those employees who have put in three years service earlier in such areas, cannot be sent back to that areas.” Hence, in view of the judgment of Division Bench the Hon’ble Bombay High Court Bench at Nagpur in Writ Petition No.2770/2013, the following order is passed-

ORDER

- 1) The O.A. is allowed.
- 2) The impugned transfer order is hereby quashed and set aside.
- 3) The respondents may consider the representation of the applicant dated 08.03.2022 in the coming Annual General Transfer of the year 2023.
- 4) No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated – 03/04/2023

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 Vice Chairman .
Judgment signed on : 03/04/2023.