

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 767/2015

Mr. Mahendra S/o Sashidhar Tripathi,
Aged about 51 years, Occ. Government service,
(Presently working as Workshop Superintendent,
Government Polytechnic, Amravati),
R/o Kalyan Nagar, Amravati (Mah. State).

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Department of Higher & Technical Education,
Mantralaya, Mumbai-400 032.
- 2) Government Polytechnic,
Gadge nagar, Amravati through its Principal.
- 3) Shri A.M. Khan,
Workshop Superintendent,
Government Polytechnic, Arvi
District, Wardha.

Respondents

S/Shri Harish Dangre, N.S. Autkar, Advocates for the applicant.

Smt. M.A. Barabde, P.O. for respondent nos. 1 and 2.

Shri A.B. Mirza, Advocate for respondent no.3.

Coram:- Hon'ble Shri B. Majumdar, Vice Chairman.

Dated: - 27/04/2016.

ORDER -

Heard Shri N.S. Autkar, Id. counsel for the applicant, Smt. M.A. Barabde, Id. P.O. for the respondent nos. 1 & 2 and Shri A.B. Mirza, Id. counsel for R-3. The O.A. is heard finally and decided at the admission stage with the consent of Id. counsel for the parties.

2. The applicant is a Workshop Superintendent, Govt. Polytechnic (Group-A). He was posted at Amravati from 6-8-2011. Vide order dated 7-12-2015, he has been transferred to Govt. Polytechnic, Arvi. R/3, Shri A.M. Khan has been posted at the place of the applicant. The order also states that the applicant's transfer is on administrative grounds and that of R/3 as per his request. The applicant has challenged the order in the O.A. On 8-12-2015, R/3 joined at Amravati and the applicant stood relieved. The present application was filed on 9-12-2015. On 10-12-2015, the Tribunal granted status-quo with regard to the transfer of the applicant.

3. The applicant submits that this was a mid-term order of transfer and it is clear that he was transferred to Arvi only to accommodate R/3 at Amravati. The impugned order does not state the reasons for such a mid-term order as required under section 4 of the Transfer Act. He has his own personal health problems and medical facilities are not available at Arvi.

4. The Secretary, Department of Higher and Technical Education (R/1) and the Principal, Govt. Polytechnic, Amravati in their reply-in-affidavit submit that the impugned order was issued after complying with the provisions of section 4 (4) & 4 (5) of the Transfer Act and after obtaining prior approval from the competent authority. A general transfer order was earlier issued on 24-7-2015. As some of the employees who were transferred had made representations about their genuine difficulties and to accommodate the same, the impugned order was issued.

5. Shri A.M. Khan, R/3 in his reply submits that on 2-2-2015 he had moved an application before the Director of Technical Education for his transfer from Arvi to Amravati on grounds of ill health as he was unable to obtain medical treatment at Arvi. The impugned order cannot be considered as mid-term as it is in tune with the academic session of Govt. Polytechnic, Amravati was to come an end on 31-10-2015 and the transfers are required to be done before the commencement of the 2016 session.


6. Shri N.S. Autkar, Id. Counsel for the applicant submitted that according to the respondent no. R/3 he was required to be transferred to Amravati on health grounds. This could have been easily done in the 2015 transfer session itself as he had submitted his application in this regard in February, 2015. Besides, his health

conditions do not appear to be so grave as to justify his transfer from Arvi. Thus there are no exceptional circumstances which are explained by the respondents for carrying out the mid-session transfer in compliance with section 4 (4) of the Transfer Act.

7. Shri A.B. Mirza, Id. Counsel for R/3 reiterated the submission made by the respondent in his reply.

8. Smt. M.A. Barabde, Id. P.O. for R/1 & 2 submitted that R/3 had serious medical (cardiac) problems for which he was required to undergo angiography at Nagpur. The transfer was affected after obtaining the approval of Hon'ble Chief Minister prior to issue of the order and for this purpose all the relevant facts and reasons for transfer were placed before him. Thus the impugned order has been issued after complying with the provisions of section 4 of the Transfer Act.

9. I find that it is undisputed that the applicant is a Group-A employee and the impugned order of transfer dated 7-12-2015 is a mid session one. In terms of the table in section 6 of the Transfer Act, for Group-A officers other than those in the pay scale of Rs.10,650-15,850, the Competent Transferring Authority is the Minister-in-charge in consultation with the Secretary of the department. Thus in terms of section 4 (4) of the Transfer Act, in case of



mid-session transfer the approval of the next higher authority, i.e., Hon'ble Chief Minister, is required to be taken.

10. The learned P.O. has produced before me the relevant file of Mantralaya dealing with the case of the applicant's transfer. On perusal of this file, I find that the relevant events had taken place in the following sequence -

- (a) On 2-2-2015 R/3 applied for transfer to Amravati on medical grounds.
- (b) On 24-7-2015 a general order of transfer came to be issued.
- (c) On 3-11-2015 the Director of Technical Education submitted a proposal to Govt. for transferring R/3 to Amravati and the applicant to Arvi. The proposal submitted before the Hon'ble Chief Minister states that R/3 ^{is} ~~as~~ required to be posted at Amravati on health grounds and this can ^{not} be done as there was no vacant post at Amravati. R/3 can be posted in Amravati if the applicant is transferred to Arvi.
- (d) On 27-11-2015 the Hon'ble Chief Minister granted his approval to the above proposal.
- (e) On 7-12-2015 the impugned order of transfer was issued.

11. Thus on perusal of the relevant record of the office of R/1, I find that action to transfer of R/3 to Amravati and the applicant to Arvi on a reciprocal basis was taken after following the due

procedure, i.e., obtaining the approval of Hon'ble Chief Minister after recording the relevant reasons for the transfer.

12. Thus, as the respondents have complied with the provisions of section 4 (4) of the Transfer Act, I find that they have committed no illegality in issuing the impugned order dated 7-12-2015. The O.A. is without any merit and stands rejected.

sd/-

(B. Majumdar)
Vice-Chairman.

dnk.