

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 905/2022(S.B.)

Dr.Manish s/o Balkisanji Agrawal,
Age about 52 yrs., Occ. Service, r/o
c/o General Hospital, Khamgaon, Tq.
Khamgaon, Dist. Buldana.

Applicant.

Versus

- 1) The State of Maharashtra
through its Secretary,
Department of Public,
Health, Maharashtra State,
Gokuldas Tejpal Rugnalaya Awar Sankaul,
Bulding 10th Floor, Mantralaya, Mumbai-01.
- 2) Deputy Secretary, Department of
Public Health, Maharashtra State,
Gokuldas Tejpal Rugnalaya,
Awar Sankul Building 10th Floor,
Mantralaya, Mumbai – 01.
- 3) The Director of Health Services,
Arogya Bhawan, St.George Hospital,
Campus, Mumbai.
- 4) Medical Superintendent,
General Hospital Khamgaon,
Shegaon Road Near Bus Stand,
Khamgaon, Tq.Khamgaon,
Dist. Buldana.
- 5) Dr.Rajesh P. Phalke,
Aged about adult, r/o c/o
Medical Superintendent,
General Hospital Khamgaon,

Shegaon Road Near Bus Stand,
Khamgaon, Tq. Khamgaon,
Dist.Buldana.

Respondents

Shri J.B.Kasat & Shri V.Dahat, Ld. counsel for the applicant.
Shri S.A.Sainis, Ld. P.O. for the respondents 1 to 4.
None for the respondent no.5.

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

Dated: - 15th February 2023.

JUDGMENT

Judgment is reserved on 7th February 2023.

Judgment is pronounced on 15th February, 2023.

Heard Shri J.B.Kasat, learned counsel for the applicant and Shri S.A.Sainis, learned P.O. for the Respondents 1 to 4. None for the respondent no.5.

2. Case of the applicant is as follows.

The applicant is M.B.B.S. and also holds diploma in Anaesthesiology. He has 47% Locomotor Disability. By the impugned order dated 01.08.2022 (Annexure A-1) he was promoted to the post of Anaesthesiologist and transferred and posted at General Hospital, Buldana. His grievance is confined to the place of posting. According to him, he should have been accommodated on the promotional post at General Hospital, Khamgaon considering his

disability, choice given by him for Khamgaon (Annexure A-4), guidelines contained in G.R. dated 15.12.2004 (Annexure A-6) and vacancy in General Hospital, Khamgaon. He had made a representation dated 03.08.2022 (Annexure A-5) to post him at Khamgaon. The vacant post of Anaesthesiologist in General Hospital, Khamgaon was subsequently filled up by posting respondent no.5 by order dated 29.11.2022 (Annexure A-7). Hence, this O.A. seeking direction to the respondents to post him at General Hospital, Khamgaon and further seeking direction that respondent no.5 be posted at General Hospital, Buldana by quashing and setting aside the order dated 29.11.2022 (Annexure A-7).

3. No reply is filed by any of the respondents.

4. The applicant has relied on circular dated 15.12.2004 to contend that his posting at Buldana is arbitrary and malafide. This circular states that persons with disability shall be transferred at a place which is near the place of their residence but while doing so administrative convenience is also required to be kept in mind.

5. Record shows that the post of Anaesthesiologist at General Hospital, Khamgaon, was lying vacant till it was filled up by posting respondent no.5 there by order dated 29.11.2022. The applicant has assailed this order by contending that it is illegal and perverse.

6. Except bare assertion of the applicant there is nothing on record to show that either the order of posting the applicant at Buldana or the order of posting respondent no.5 at Khamgaon is arbitrary or malafide.

7. Transfer is an incidence of service. No employee can insist that he be posted at a place of his first choice. In this case the applicant was transferred to Buldana on promotion. Order dated 28.05.2019 (Annexure A-3) and pleading of the applicant show that in the year 2018 he was transferred from Khamgaon to Buldana but on request he was transferred from Buldana to Khamgaon only within a few months. It appears that barring the aforesaid rather short stint at Buldana the applicant has worked at Khamgaon only since his appointment dated 24.06.2002. For the reasons discussed hereinabove the O.A. is dismissed with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 15/02/2023

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 Member (J) .
Judgment signed on : 15/02/2023.
and pronounced on