

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 05 OF 2019**

DIST. : AHMEDNAGAR

Vasant s/o Subhash Bendre, )  
Age. 58 years, Occ. Service as )  
Sub-Divisional Water Conservation )  
Officer, Karjat, Dist. Ahmednagar )  
R/o 1851/A, Jijamata Housing Society )  
Shirur, Tal. Shirur, Dist. Pune. )--

**APPLICANT**

**VERSUS**

1. The State of Maharashtra, )  
Through its Principal Secretary, )  
Water Resources Department, )  
Mantralaya, Mumbai – 32. )
2. The Secretary, )  
Soil and Water Conservation )  
Department, Maharashtra State, )  
Mantralaya, Mumbai – 32. )
3. The Chief Executive Officer, )  
Zilla Parishad, Ahmednagar. ) --

**RESPONDENTS**

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APPEARANCE :- Shri R.D. Khadap, learned Advocate holding  
for Shri S.S. Thombre, learned Advocate for  
the applicant.

: Shri D.R. Patil, learned Presenting Officer  
for the respondent nos. 1 & 2.

: Shri P.K. Wagh, learned Advocate holding  
for Shri A.D. Aghav, learned Advocate for  
respondent no. 3.

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**CORAM** : **JUSTICE A.H. JOSHI, CHAIRMAN**  
**RESERVED ON** : **28.2.2019**  
**PRONOUNCED ON** : **6.3.2019**  
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### **JUDGMENT**

1. Heard Shri R.D. Khadap, learned Advocate holding for Shri S.S. Thombre, learned Advocate for the applicant, Shri D.R. Patil, learned Presenting Officer for the respondent nos. 1 & 2 and Shri P.K. Wagh, learned Advocate holding for Shri A.D. Aghav, learned Advocate for respondent no. 3.

2. By filing the present Original Application the applicant is challenging the order of transfer dtd. 20.11.2018 issued by the res. no. 2 whereby he is transferred from his present posting to the post of Sub-Divisional Water Conservation Officer, Zilla Parishad Minor Irrigation Sub Division, Wadsa, Dist. Gadchiroli.

3. Admitted facts are as under :-

(A) FACTS :-

- (i) Applicant is due to retire on 31<sup>st</sup> July, 2019.
- (ii) Impugned transfer is midterm & mid tenure.

4. Applicant's grievance in summary is as below :-

- (a) As per Section 5 of the Maharashtra Government Servants Regulation of Transfers and Prevention of

Delay in Discharge of Official Duties Act, 2005 (for short the R.O.T. Act, 2005) a Government servant, who is due for retirement within one year, should not be transferred.

- (b) As per Section 4 (4) of the R.O.T. Act, 2005 existence and recording of special reasons or exceptional circumstances is mandatory.
- (c) Satisfaction of the transferring authority for midterm transfer as to special reasons and exceptional circumstances is mandatory

5. In the affidavit in reply filed by the respondent State even one line description is not mentioned as regards the special reasons and exceptional circumstances due to which the transfer of the applicant, who is due for retirement on 31<sup>st</sup> July, 2019, is required.

6. In view of grounds mentioned in the foregoing paragraph No. 4 the impugned transfer order dated 20.11.2018 issued by respondent no. 2 appears to be patently illegal being contrary to mandatory provisions of law and large number of precedents.

7. In the result, the Original Application succeeds and it is allowed in terms of prayer clause (A) of para 10 with further directions that the applicant should be allowed to work on the

post on which he was working prior to issuance of impugned transfer order, without loss of time.

8. Parties are directed to bear their costs.

**(A.H. JOSHI)**  
**CHAIRMAN**

**Place : Aurangabad**

**Date : 6.3.2019.**

ARJ-O.A.NO. 05-2019 S.B. (TRANSFER)