

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION ST. NO. 662 OF 2017**  
(Shri Ravindra B. Bedase V/s. State of Mah. & Ors.)

**Coram : Hon'ble Shri J.D. Kulkarni, Vice Chairman**

**DATE : 22-05-2017**

**ORAL ORDER:-**

Heard Shri Bhausahab S. Deshmukh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The applicant has challenged the suspension order dated 4.5.2017 passed by the Deputy Director, Education Department, Nashik Division. The applicant is serving as a Sr. Clerk in the office of Education Officer (Secondary), Education Department, Zilla Parishad, Dhule. The learned Advocate for the applicant admits that the applicant has not filed any departmental appeal against the said order of suspension. He seeks permission to withdraw the present original application and also permission to file departmental appeal against the suspension order dated 4.5.2017, however, apprehends that his appeal may not be decided before his retirement. The applicant is going to retire from the service on 31.10.2017 and, therefore, he requests that the respondent authorities be directed to decide his appeal within a stipulated timeframe.

3. The learned C.P.O. submits that the present original application is filed by the applicant without exhausting the available remedies.

4. Considering the circumstances as referred above, I pass the following order :-

**ORDER**

(A) The applicant is allowed to withdraw the present original application. The applicant is also permitted to file departmental appeal against the suspension order dated 4.5.2017 to the competent appellate authority. The learned Advocate for the applicant submits that the applicant will file such a appeal within a period of one week from today.

(B) The res. no. 2 is therefore directed to take a decision on the said appeal of the applicant within a period of 2 months from the date of receipt of the same and decision thereon shall be intimated to the applicant in writing.

The original application thus stands disposed of as withdrawn accordingly. There shall be no order as to costs.

Steno copy allowed for the use of learned Advocate for the applicant.

**VICE CHAIRMAN**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NOS. 293, 294 & 295 ALL OF 2017  
[Smt. Lata Baburao Sarode & Ors. Vs. The State of Mah. & Ors.]**

**CORAM : Hon'ble Shri J.D. Kulkarni, Vice Chairman.**

**DATE : 22.05.2017.**

**ORAL ORDER:**

Heard Shri Chetan T. Jadhav , learned Advocate for the Applicants in all these O.As. and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents in all these O.As.

2. Vide these three independent Original Applications the applicants have challenged their respective transfer from the post of Staff Nurse vide orders dated 5.5.2017 and 8.5.2017. The applicants in different O.As. have been transferred as under:-

(i) In O.A. No. 293/2017 the applicant has been transfer from General Hospital, Aurangabad to Rural Hospital, Deogaon (Rangari).

(ii) In O.A. No. 294/2017 the applicant has been transferred from Sub-District Hospital, Gangapur to Rural Hospital, Beedkin.

(iii) In O.A. No. 295/2017 the applicant has been transferred from General Hospital, Aurangabad to Sub-District Hospital, Vaijapur.

3. According to the applicants, the said orders have been passed against the provisions of G.Rs. dated 30.11.2016 and 20.04.2017. It is further alleged that the committee did not consider the applicants grievances properly and the transfer orders are not issued as per the seniority list. It is further stated that the orders have been passed to favour the certain individuals.

4. The learned Advocate for the applicants submits that if the orders of transfer of the applicants are stayed, the some of the employees who are transferred in place of applicants and vice-versa will be suffered. The learned Advocate for the applicants therefore seeks permission to join the employees, who may be affected by any orders that may be passed in these O.As., as party respondents. Permission granted to file application for amendment accordingly.

5. It seems from the G.R. dated 20.04.2017 that the said G.R. is not against the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short "the Transfer Act 2005"). In fact, the guidelines are subject to provisions of the said Act. It seems that all the applicants are overdue for their transfer, since they are working at their

respective places for more than 8-9 years. In such circumstances, the applicants cannot claim stay at their respective places. Admittedly, there is no breach of transfer Act 2005 and therefore, in such circumstances, no interim stay can be granted to the impugned orders of transfer and any such order will have to be passed only after hearing the respondents as well as the proposed respondents which applicants wants to add as party respondents.

6. The learned Advocate for the applicants submits that the respondents be directed to supply the copies of the overstay list, seniority list and vacant position list in the cadre of Staff Nurse within Aurangabad district. It is not known as to whether the said list is maintained by the respondents and therefore, this prayer cannot be considered at this juncture. The respondents may file their detailed reply on each and every paragraph of the O.As. and if required may place on record necessary relevant documents.

7. In view thereof, issue notices to the respondents, returnable within four weeks.

8. Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

9. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

10. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

11. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

12. S.O. after four weeks.

13. Steno copy and Hamdast is allowed to both parties.

**VICE CHAIRMAN**

**ORAL ORDERS 22.05.2017-KPB(SB) Vice Chairman**