

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
REVIEW APPLICATION No.09 of 2016
IN ORIGINAL APPLICATION No. 736 of 2015 (S.B.)

Sangita Mohan Aware,
Aged about 50 years, Occ. Service,
R/o Govt. Technical High School Centre,
Hinganghat, District Wardha.

Applicant.

Versus

- 1) State of Maharashtra,
through the Secretary, Department of
Vocational Education and Training,
Mumbai-32.
- 2) Director, Vocational Education and
Training Maharashtra State, 3, Mahapalika
Marg, Mumbai.
- 3) Joint Director of Vocational Education and
Training, Regional Office, near Udyog Bhavan,
Civil Lines, Nagpur.
- 4) Smt. Sneha Bharat Motghare,
Aged Major, R/o Govt. Technical High School Centre,
Mul Road, Gadchiroli, Gadchiorli.

Respondents.

Shri R.V. Shiralkar, Advocate for the applicant.

Shri A.M. Ghogre, learned P.O. for respondent nos. 1 to 3.

Shri B.D. Pandit, learned P.O. for respondent no.4.

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

JUDGMENT

(Delivered on this 4th day of May,2018)

Heard Shri R.V. Shiralkar, learned counsel for the applicant, Shri A.M. Ghogre, learned P.O. for respondent nos. 1 to 3 and Shri B.D. Pandit, learned counsel for respondent no.4.

2. The applicant has prayed that the order dated 07/06/2016 passed in O.A. No. 736/2015 by this Tribunal and the order dated 30/12/2015 allowing the said application be reviewed and the respondent nos.2 and 3 be directed to consider the case of the applicant for transfer to Nagpur on the post of full time teacher in Electronics at Govt. Technical High School and Junior College.

3. The learned counsel for the applicant submits that the learned Member of the Tribunal has failed to observe that there was compliance of Section 4 (4) and 4 (5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short "Transfers Act") and there were exceptional circumstances or special reasons as contemplated in G.Rs. dated 11/02/2015 and 28/04/2015. It is further stated that the findings given are contrary to the provisions of the Transfers Act and therefore the order passed by the Tribunal is bad in law. It is further stated that the events shown in paragraph no.11

of the Judgment are prior to passing of interim order dated 30/11/2015 and should not have been considered as compliance of the Transfers Act and therefore the Tribunal committed an error apparent on the face of record while passing impugned order dated 07/06/2016. The applicant further submits that the applicant has raised the ground in her application that the transfer order dated 30/12/2015 is contrary to Section 5 (2) of the Transfers Act, as more than 30% of the employees from electronics department are transferred and nobody was left in the department and that such transfer is not permissible. It is further stated that the Tribunal has failed to consider that the applicant was making request transfer for Nagpur since 2013 as the post at Nagpur was vacant, but her request was not considered though her son was in 12th Standard at the relevant time. It is further stated that the Tribunal has failed to consider that the respondent no.4 never completed her tenure at Gadchiroli and before completion of tenure her request for Nagpur was considered. In view thereof, the order passed in O.A.No.736/2015 on 7th June,2016 is required to be quashed and set aside.

4. I have perused the order passed by this Tribunal in 736/2015 on 7th June,2016. Perusal of the said order shows that the Tribunal has considered all the points raised by the applicant and

also the provisions of Transfers Act. If the applicant was aggrieved by the order passed by the Tribunal, it was open for her to file appeal against that order or to file Writ Petition as the case may be. No error apparent has been seen on the record so as to review the order. According to the applicant, herself during the pendency of the O.A. the post at Nagpur was filled in since the respondent no.4 was transferred at Nagpur. The Tribunal is not expected to enter into discretion of the competent authority to post a particular employee at particular post and the applicant also cannot insist that she shall be posted at Nagpur only. Considering all these aspects, I do not find any reason to review the order passed by this Tribunal. Hence, the following order :-

ORDER

The Review Application No. 09/2016 is dismissed with no order as to costs.

(J.D. Kulkarni)
Vice-Chairman (J).

Dated :- 04/05/2018.

dnk.