

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 530/2023(S.B.)**

Ashok Shrihari Madavi,
Aged about 56 years,
Occupation – Service,
R/o Plot No.913, New Telangkhedi,
Ram Nagar, Nagpur.

Applicant.

Versus

1. State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai - 32.
2. Director General of Police,
Shahid Bhagat Singh Marg,
Colaba, Mumbai-400001.
3. Superintendent of Police,
Anti Corruption Bureau, Civil Lines,
Nagpur-440001.
4. Commandant,
State Reserve Force, Group 13,
Nagpur, Office at Wadsa, Dist.- Gadchiroli.

Respondents

Shri M.R.Patil, Ld. Counsel for the applicant.
Shri M.I.Khan, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 16th February, 2024.

JUDGMENT

Heard Shri M.R.Patil, learned counsel for the applicant and Shri M.I.Khan, learned P.O. for the Respondents.

2. Case of the applicant in short is as under-

The applicant was initially appointed as Class-IV employee in the year 1996. The applicant was promoted on the post of Clerk in the year 2001. Thereafter, he was promoted as Head Clerk, Class-III in the year 2017. The applicant was posted in Naxalite Area, but Headquarter of the applicant was at Nagpur. The applicant is due to retire on 30.11.2024.

3. By the impugned order, applicant is transferred in the Naxalite Area i.e. Wadsa, District Gadchiroli. The Government of Maharashtra has issued G.R. dated 06.08.2002. As per the G.R., employee who is more than 50 years age shall not be posted in the Naxalite Area. Therefore, applicant approached to this Tribunal to quash and set aside the impugned transfer order dated 26.05.2023.

4. The O.A. is strongly opposed by the respondents. It is submitted that Clause-5 of the G.R. is not applicable to the applicant. It is for the Government to decide the same. As per the G.R. as far as possible the employees who have completed 50 years age shall not be posted in the Naxalite Area. It is not a mandatory direction. It is submitted that the applicant is not due for transfer within one year and therefore, the impugned order is perfectly legal and correct. Hence, the O.A. is liable to be dismissed.

5. During the course of submission, the learned counsel for the applicant has pointed out Clause-5 of the G.R. dated 06.08.2002. As per this G.R. as far as possible the employees who have completed more than 50 years age shall not be appointed in Naxalite Area. The Wadsa, District Gadchiroli is a Naxalite Area. Therefore, the respondents should have considered the provisions of G.R. dated 06.08.2002.

6. In respect of the retirement, learned counsel for the applicant had submitted that the applicant is due for retirement in the month of November 2024 i.e. within 9 months from today.

7. On 07.06.2023, this Tribunal has passed the order and granted stay to the impugned transfer of order dated 26.05.2023. There is no dispute that the applicant is not relieved from Nagpur to join at Wadsa. Now, only 9 months are left for retirement of the

applicant. As per the Provision of Section 5 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005, the period of tenure can be extended to the employee due for transfer after completion of tenure at a station of posting or post has less than one year for retirement. The applicant is due to retire in the month of November i.e. within 9 months from today. Moreover, the transfer order is already stayed by this Tribunal as per the order dated 07.06.2023. Hence, the following order-

ORDER

1. The O.A. is allowed.
2. The impugned transfer order is dated 26.05.2023 is hereby quashed and set aside in respect of the applicant only.
3. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated - 16/02/2024
rsm.

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 Vice Chairman.
Judgment signed on : 16/02/2024.
Uploaded on : 21/02/2024.
