

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.516/2018

DISTRICT: DHULE

Ravindra s/o Khushal Gangurde,
Age : 55 years, Occu. : Service,
R/o. Bhinagar, Sakri Road,
Dhule, Tq. & Dist. Dhule.

...APPLICANT

V E R S U S

1) The Regional Joint Commissioner
of Agriculture,
Nashik Region, Nashik.

2) The District Superintendent
Agricultural Officer, Jalgaon.

3) The Taluka Agricultural Officer,
Chalisgaon, Tq. Chalisgaon,
Dist. Jalgaon.

...RESPONDENTS

APPEARANCE : Shri D.B.Shinde Advocate for Applicant.

: Shri N.U.Yadav Presenting Officer for the
respondents.

CORAM : B. P. Patil, Member (J)

DATE : 14th December, 2018

J U D G M E N T
[Delivered on 14th day of December, 2018]

1. By filing the present O.A. the applicant has challenged the impugned order dated 31-05-2018 issued by the respondent no.1 by which he has been transferred from the office of Taluka Agriculture Officer, Parola to Taluka Agriculture Officer, Chalisgaon and prayed to quash and set aside the said order. He has also prayed to direct the respondent no.1 to consider his case for transfer against the subsisting vacancies in Dhule District in view of G.R. dated 09-04-2018 by filing the present O.A.

2. The applicant is working as Tracer with the respondents since 34 years. He belongs to SC category. He was working in the office of Taluka Agriculture Office, Parola by order dated 01-11-2011. He has completed his normal tenure at Parola, and therefore, he was due for transfer in the year 2017. As he was due for transfer, he filed an application dated 15-05-2017 and requested the respondents to transfer him at Dhule where his family members are residing. It is his contention that his wife and both sons are suffering from mental illness and there is no other fit person in the family to take care of them except the

applicant, and therefore, he has prayed to transfer him at Dhule. However, as no transfers were effected in 2017, the applicant continued to work at Parola.

3. In the year 2018, respondents called choices from the employees who were due for transfer. The applicant has exercised his right and gave options regarding the places of his choice for posting as per the G.R. dated 09-04-2018. It is his contention that by issuing G.R. dated 09-04-2018, the Government has issued guidelines for the transfers of the Government employees. As per the said G.R. if the family members of the Government employee are suffering from mental illness, the employees should be posted at the place of their choice to take care of the family members. It is his contention that the said G.R. has been issued by the Government for bringing more transparency in the process of transfers and to allow the Government employees to participate in the process of transfer.

4. It is his contention that the respondent no.1 had issued the impugned order dated 31-05-2018 and transferred the applicant from Taluka Agricultural Office, Parola to Taluka Agricultural Office, Chalisgaon. Respondent no.1 has not considered his request for

transferring him at any place in Dhule. Respondent no.1 has not followed the guidelines given in G.R. dated 09-04-2018. Therefore, the applicant has filed a representation dated 25-06-2018 and requested the respondent no.1 to consider his case in view of the guidelines given in G.R. dated 09-04-2018. Some of the other employees who had been transferred by order dated 31-05-2018 had also made representations. Representations made by the applicant and other employees were under consideration of the respondent no.1 but decision has not been taken, therefore, he has filed other representations dated 05-07-2018 and 06-07-2018 and requested respondent no.1 to consider his case for transferring him at Dhule as 2 posts are vacant at Dhule but the respondent has not taken any decision on his representations.

5. It is contention of the applicant that in view of the impugned order, he has been relieved from his earlier post on 15-06-2018. Therefore, he joined new posting on 16-07-2018. It is further contention of the applicant that the impugned order is in contravention of the guidelines given in G.R. dated 09-04-2018 and it caused

inconvenience to the applicant and his family members. Therefore, he has approached this Tribunal and prayed to quash the impugned order dated 31-05-2018 and also prayed to direct the respondent no.1 to consider his case for transfer against the subsisting vacancies in Dhule District.

6. Respondent nos.1 to 3 have resisted the contentions of the applicant by filing their affidavit in reply. It is their contention that the applicant was due for transfer as he was working since last 6 years and 6 months at Parola. It is their contention that the applicant had submitted option mentioning the places of his choice for transfer. Respondents have considered his request and posted him in Chalisgaon Taluka as he had given preference in that regard in the form at Sr.No.8 and 9. It is their contention that the applicant has been posted at Chalisgaon considering his difficulties after counseling. It is their contention that the impugned order has been issued in view of the provisions of G.R. dated 09-04-2018 and there was no violation of the guidelines mentioned therein.

7. It is their contention that as per the guidelines in the G.R., Civil Services Board had considered the cases of the

employees working in difficult areas and who were eligible for transfer up to 31st March. The Civil Services Board has published the list of the employees working in non-difficult areas and effected their transfers. It is their further contention that there is no violation of the guidelines mentioned in the G.R. and no illegality has been committed by them while effecting the transfer. It is their contention that they have considered the vacancies of the post of Tracer in 4 districts of Nashik Division and considering the vacancy percentage they have effected the transfers of the Government employees including the applicant. It is their contention that in the month of April, 2018 in Jalgaon District vacancy percentage was 75% while vacancy percentage in Dhule District was 40%. In order to maintain equal ratio, the posts in Jalgaon District have been filled in and the applicant had been transferred and posted in Jalgaon District. It is their contention that the transfer of the applicant has been made on account of administrative exigencies, and therefore, there is no illegality. It is their contention that the applicant has been posted near to his native place and therefore no inconvenience is caused to him. It is their contention that they have considered the case of the applicant as per the guidelines of G.R. and after

considering medical certificates produced by him, they have effected transfer of the applicant and there is no illegality in the impugned order. Therefore, they have prayed to reject the O.A.

8. I have heard Shri D.B.Shinde Advocate for Applicant and Shri N.U.Yadav Presenting Officer for the respondents. Perused documents placed on record by both the parties.

9. Admittedly, the applicant is serving as Tracer with the respondents since 34 years. Admittedly, the applicant has been transferred and posted in the office of Parola Agriculture Officer by order dated 01-11-2011. Admittedly, applicant has completed his tenure of 6 years at the said place and he was due for transfer at the time of general transfers of 2018. Admittedly, the respondent no.1 called choice of places for posting on transfer from the applicant and other Government employees who were due for the transfer. Admittedly, the applicant has given his choices of the places to be transferred and he has submitted 10 places of his choice. There is no dispute about the fact that the applicant gave options of 5 places in Dhule District and 5 places in Jalgaon District. Admittedly, the applicant has given his choice regarding posting at Chalisgaon at Sr. No.8

and 9. Admittedly, the applicant has been called for counseling before issuance of the impugned order by the competent authority and the Civil Services Board. Admittedly, after considering the list of the preference given by the applicant, respondent no.1 issued the impugned transfer order and transferred the applicant and posted him at Chalisgaon. There is no dispute about the fact that the family members of the applicant are residing at Dhule. Respondents have not disputed the fact that wife of the applicant and his 2 sons are suffering from mental disorder and they are under treatment. Admittedly, the distance between Dhule and Parola is 30 km while the distance between Dhule and Chalisgaon is about 60 km. approximately.

10. Learned Advocate for the applicant has submitted that the applicant has given choice of the places to be posted and he has given choice of Chalisgaon at Sr. No.8 and 9 while he has given choice for other places in Dhule District which are at Sr. No.1 to 4. He has submitted that 2 posts at Dhule are still vacant but the respondent no.1 had not considered his choice as well as the illness of his family members and posted him at Chalisgaon which is

inconvenient for the applicant. He has submitted that the applicant is the only fit person in his family to take care of his wife and sons who are suffering from mental illness but the respondent no.1 has not considered all these aspects and guidelines given in G.R. dated 09-04-2018 while passing the impugned order. Therefore, the impugned order is in contravention of the guidelines of the said G.R. Therefore, he has prayed to quash the impugned order.

11. He has submitted that at present 2 posts are vacant in Dhule District and therefore he has prayed to direct the respondent no.1 to consider the case of the applicant afresh for transferring him in Dhule District and prayed to quash and set side the impugned order.

12. Learned P.O. has submitted that case of the applicant has been considered by Civil Services Board sympathetically in view of the grounds mentioned by the applicant in his representation. Civil Services Board has considered illness of the family members of the applicant. They made counseling of the applicant and thereafter as per the preference given by the applicant they effected transfer of the applicant at Chalisgaon which is a place of one of the choices given by the applicant. He has

submitted that there was no illegality on the part of the Civil Services Board while effecting transfer of the applicant and the impugned order has been issued in accordance with the guidelines mentioned in G.R. dated 09-04-2018.

13. Learned P.O. has further submitted that the respondent no.1 as well as the Civil Services Board had considered the vacancies of the posts of Tracer in 4 District of Nashik Division in April, 2018. He has submitted that as per the chart given by the respondents in their affidavit in reply at paper book page 34, 75% posts in Jalgaon District were vacant while the percentage of vacancy in Dhule District was 40%. Therefore, considering the large number of vacant posts in the cadre of Tracer in Jalgaon District, Civil Services Board and respondent no.1 had decided to transfer the applicant in Jalgaon District and accordingly the impugned transfer order has been issued and the applicant has been transferred at Chalisgaon which is near to his native place i.e. Dhule. He has submitted that the impugned order has been issued by the respondent no.1 on account of administrative exigencies and there is no illegality in the same. Therefore, respondents have prayed to reject the O.A.

14. On perusal of documents placed on record by the parties, it reveals that the applicant has submitted his representation/application requesting respondent no.1 to make his transfer at the place of his choice. Said application has been submitted by the applicant on 15-05-2017 (page 10). The applicant has submitted the option form mentioning places of his choice. He has given 10 choices wherein the places in Chalisgaon Taluka are mentioned at Sr. No.8 & 9 (page 11 and 12). The Civil Services Board considered the request of the applicant and decided to transfer him from Parola. The applicant was called for counseling. At the time of counseling the applicant had consented for his transfer at Chalisgaon. Said fact is evident from the written consent given by the applicant which is at paper book page 41-42. On the basis of the counseling and recommendation of the Civil Services Board, the impugned order of transfer has been issued by the respondent no.1.

15. It is crystal clear from the above situation that the impugned order of transfer has been effected as per the request of the applicant and the applicant has been transferred at one of the place of his choices. The applicant

has been posted at a place which is at the distance of 60 km. from Dhule where his family members were residing. Convenience of the applicant was considered while effecting his transfer, and therefore, it cannot be said that the impugned order is causing inconvenience to the applicant. On the contrary, the said impugned transfer order has been effected considering the difficulties and illness of the family members of the applicant. Therefore, in my view, there is no violation of the guidelines mentioned in G.R. dated 09-04-2018.

16. Respondents have given chart showing percentage of vacancy of the post of Tracer in 4 district of Nashik Division (page 34) which shows that as on April, 2018, 75% posts of Tracers were vacant in Jalgaon District while vacancy percentage of the said post in Dhule District was 40%. In order to maintain the equal ratio and to fill up the vacant posts in Jalgaon, Civil Services Board recommended the transfer of the applicant in Jalgaon District i.e. at Chalisgaon on account of administrative exigencies. Therefore, in my view, there is no illegality in the impugned order. There is nothing on record to show that the impugned order of transfer has been issued by the

respondent no.1 arbitrarily and with malice. Impugned order has been issued by respondent no.1 in accordance with the provisions of Transfer Act as well as the guidelines issued by the Government by the G.R. dated 09-04-2018.

17. In view of the abovesaid discussion, in my opinion there is no illegality in the impugned order. Therefore, no interference in it is called for. There is no merit in the O.A. Consequently, O.A. deserves to be dismissed.

18. In view of the discussion in the foregoing paragraphs O.A. stands dismissed with no order as to costs.

(B. P. PATIL)
MEMBER (J)

Place : Aurangabad
Date : 14-12-2018.