

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

**DIST. BEED.**

**ORIGINAL APPLICATION NO.647/2016.**

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Ganesh s/o Tulshiram Pagare,  
Age 47 years, Occu. Service,  
R/o Snehnagar, Near Rajasthan  
School, D.P. Road, Beed,  
Tq. & Dist. Beed.

-- **APPLICANT**

**VERSUS**

1. The State of Maharashtra  
Through its Secretary,  
Urban Development Department,  
Mantralaya, Mumbai-32.  
  
(Copy to be served on Chief Presenting  
Officer, M.A.T., Aurangabad)
2. The Commissioner / Director,  
Municipal Administration,  
Government Transport Services  
Building, 3<sup>rd</sup> Floor, Worli,  
Mumbai.
3. The Divisional Commissioner,  
Municipal Administration Department,  
Aurangabad Division, Aurangabad.
4. The District Collector,  
Collector Office, Beed.

5. The Chief Officer,  
Municipal Council Beed,  
Tq. & Dist. Beed.

-- **RESPONDENTS.**

**APPEARANCE** : Shri S. P. Urgunde, learned Advocate for the Applicant.

: Smt R. S.Deshmukh, Learned Presenting Officer for the Respondents no. 1 to 4.

: Shri M. S. Indani, learned Advocate for the Intervenor.

: Shri G.K. Naik Thigle, learned advocate for the Respondent no.5 (Absent).

**CORAM** : **Hon'ble Shri JD Kulkarni, Member (J).**

**DATE** : 20.12.2016.

**JUDGMENT**

**(Delivered on this 20<sup>th</sup> day of December, 2016)**

1. The applicant Ganesh s/o Tulshiram Pagare has challenged in this O.A. his transfer order dated 12.8.2016 issued by the Respondent no.4 i.e. the District Collector, Beed. Vide impugned order the applicant has been transferred from the post of Assistant Accountant, Nagar Parishad Beed to the post of Assistant Accountant Nagar Parishad Georai Dist. Beed. According to the applicant the said order of transfer is illegal, bad in law and as such is required to be quashed and set aside.

2. According to applicant, he falls in Group C category of employees and his services were absorbed in the State cadre Group 'C' post on 2.8.2011 in the pay scale of Rs.5000 – Rs.8000 and since absorption he is working with Respondent no.5.

3. According to the applicant as per the provisions of the Maharashtra Govt. Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short Transfer Act, 2005) the respondent no.5 transferred the applicant on 5.6.2014 on the establishment of Municipal Council, Beed in recovery Department as a Recovery Officer. In 2013 the applicant was promoted as Assistant Accountant. On 19.1.2015 additional charge of establishment department was handed over to the applicant, but before completion of tenure of 3 years the applicant again was transferred to Accounts Department of Municipal Council, Beed on 6.4.2015, and all of a sudden vide impugned order dated 12.8.2016 he is transferred to Georai. The order of transfer is, therefore, against the provisions of Transfer Act, 2005.

4. The respondents no.2 to 4 tried to justify the transfer order of the applicant. It is stated that, all the earlier transfers in various department of Chief Office, Municipal Council, Beed were internal working arrangements and can not be termed as regular transfer.

The applicant has completed three years of his tenure as State Govt. employee and therefore, he has been rightly transferred to Georai and he was due for transfer.

5. Heard Shri S.P. Urgunde, learned Advocate for the applicant, Smt. R.S. Deshmukh, learned Presenting Officer for the Respondents no.1 to 4 and Shri M.S. Indani, learned Advocate for the Intervenor. Shri G.K. Naik Thigle, learned Advocate for the Respondent no.5 (Absent).

6. The only material point to be considered is whether the impugned order of transfer of the applicant from Municipal Council, Beed to Georai is legal and proper ?

7. The learned Advocate for the applicant submits that, the applicant has been transferred frequently since his absorption as a State employee. Admittedly, the applicant was absorbed in the State cadre Group C post on 2.8.2011, and since the absorption he has been working in the Municipal Council, Beed though at different posts. The learned P.O. invited my attention to the fact that even prior to absorption also the applicant was working at Municipal Council, Beed only and he has completed more than 15 years in Municipal Council, Beed and this fact is not disputed.

8. The learned Advocate for the applicant further invited my attention to the fact that, after absorption in 2011 the applicant was transferred on the establishment of recovery Department on 5.6.2014 and thereafter he was again transferred from one Department to another on 19.1.2015 and 6.4.2015 and therefore, the applicant has been transferred illegally.

9. It is material to note that, earlier the applicant had challenged his transfer when he apprehended his transfer from Municipal Council, Beed to other Municipal Council out of Beed city. Such transfer was challenged by Writ Petition No.3584/2016. The said writ petition filed before the Hon'ble High Court of Bombay, Bench at Aurangabad and the Hon'ble High Court has delivered judgment in the said writ petition on 18.7.2016 and dismissed the petition filed by the applicant. It is material to note that, in the said petition also the applicant's grievance that he was frequently transferred from one department of Municipal Council, Beed to another Department of Municipal Council, Beed was considered and the Hon'ble High Court was pleased to find no merits to interfere in the order of transfer. In para no.13 of the said judgment the Hon'ble High Court observed as under :-

“13. Upon careful perusal of the contents of the impugned communication, there is no reference of letter written by Shri Vinayak Mete, MLC, to the District Collector or to the Divisional Commissioner. It appears that there is reference to the complaint made by the intervenor and the application filed by the intervenor on 19.1.2016. *Prima facie*, it appears that the complaints against the petitioner are in the nature of not clearing the pending proposals of the employees for getting benefits on completion of 12 years period in the service. In the impugned communication, there is specific mention about the charge in the Department Enquiry No.31/2002 conducted against the petitioner in respect of filing of false birth certificate and the action proposed by the Enquiry Officer for the said misconduct. It further appears from the documents placed on record that the Sub Divisional Officer has conducted enquiry and thereafter, after adhering to the principles of natural justice, has submitted report to the District collector and the Divisional Commissioner. Therefore, in substance, the basis for writing the impugned letter by the Divisional Commissioner to the District Collector is the report submitted by the Sub-Divisional Officer, Beed. What is proposed by the impugned letter against the petitioner is his transfer from the Beed Municipal Council to any other Municipal Council. It is not in dispute that in the year 2011, the petitioner’s services have been transferred under the State Establishment. Even otherwise also transfer is an incident of service. The Maharashtra Civil Services (Conduct) Rules provide for transfer of the employees. S It is not in dispute that the petitioner is serving at Beed for a considerable period of about 17 years.”

10. In view of the aforesaid facts it will be crystal clear that, the grievance of the applicant that he was transferred frequently from one Municipal Council Department to other Department illegally has no legal force. From the order passed in Writ Petition No.5384/2016 it seems that the applicant was punished in D.E. and there were number of circumstances under which he was transferred from one Department to other Department and the said transfers were justified. In this O.A. however, the applicant suppressed these facts.

11. Admittedly, from the absorption order it seems that the applicant was absorbed in Municipal Council, Beed on 2.8.2011 and till the date of impugned order of transfer dated 12.8.2016 the applicant was serving in Municipal Council, Beed itself may be in different Departments. The fact remains that, the applicant is serving since absorption i.e. since 2011 in the office of Municipal Council, Beed. Considering his earlier period before absorption the applicant has completed almost more than 17 years and therefore, the respondent i.e. Collector, Beed seems to have thought it proper to transfer the applicant out of Municipal Council. It is material to note that in the Writ Petition No.3584/2016 filed by the applicant himself, as already discussed, the Hon'ble High Court was pleased

to direct the Municipal Council to make applicable the provisions of Transfer Act to the employees of Municipal Council, and the said directions seems to have been followed by the Respondent i.e. Collector as seems from the impugned order dated 12.8.2016 and considering the date of absorption of various employees in the State cadre it was decided to transfer various Officers and accordingly as many as six Officers are transferred including the applicant. The applicant has completed more than 5 years in Municipal Council, Beed since the date of his absorption and therefore, I do not find any illegality in transferring applicant from Municipal Council, Beed to Municipal Council, Georai along with other five Officers. No mala fides have been proved against such transfer.

12. In view of the discussions in foregoing paragraphs I do not find any merits in the O.A. Hence the order.

ORDER.

The O.A. stands dismissed with no order as to costs.

**MEMBER (J)**

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