

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 290 OF 2024**

**(Subject:- Transfer)**

**DISTRICT:-PARBHANI**

**Asha D/o Balaji Garud,** )  
Age 49 years, Occu. Service )  
(As Education Officer Secondary) )  
R/o Jijamata Road, Parbhani, )  
Tq. & Dist. Parbhani. )  
Mob. No.9881479510 ) **APPLICANT**

**V E R S U S**

- 1. The State of Maharashtra,** )  
Through, Principal Secretary, )  
School Education and Sport )  
Department Main Building, )  
Madam Cama Road, Mantralaya, )  
Mumbai 400 032. )
- 2. The Under Secretary,** )  
School Education and Sports )  
Department Main Building, )  
Madam Cama Road, Mantralaya, )  
Mumbai-400 032. )
- 3. The Commissioner (Education),** )  
Maharashtra State, )  
1<sup>st</sup> Floor, Central Building Dr. Annie )  
Beasant Road, Agarkar Nagar, )  
Pune 411 001. )
- 4. The Chief Executive Officer,** )  
Zilla Parishad, Parbhani )  
Jintur Rd, Masoom Colony, )  
Parbhani, Maharashtra 431 401. ) **RESPONDENTS**

-----  
**APPEARANCE :** Shri S.S. Thombre, learned counsel  
for the applicant.  
: Shri D.M. Hange, learned Presenting  
Officer for the respondent authorities.  
-----

-----  
**CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)**

**DATE : 19.08.2024.**  
-----

### **ORDER**

Heard Shri S.S. Thombre, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities finally with consent at admission stage.

2. By filing this Original Application the applicant is seeking quashing and setting aside his transfer order dated 11.03.2024 issued by the respondent No.2.

3. Brief facts giving rise to this Original Application are as follows:-

(i) The applicant had joined as a Education Officer on 01.07.2013 and since then the applicant has worked at various places. The applicant was posted as a Education Officer (Secondary), Zilla Parishad, Parbhani vide order dated 30.08.2021 (Exh. 'A'). Pursuant to the said transfer order, the applicant has joined the duties on 21.09.2021.

(ii) The applicant further contends that by order dated 10.07.2023 the applicant came to be suspended from the post of Education Officer (Secondary), Zilla Parishad, Parbhani. By filing the Original Application No. 644/2023, the applicant has challenged the said suspension order dated 10.07.2023 (Exh. 'B') before this Tribunal. By order dated 24.11.2023 this Tribunal was pleased to allow the Original Application filed by the applicant and quashed and set aside the impugned suspension order dated 10.07.2023 and further directed the respondents to forthwith reinstate the applicant on the post from which she was suspended. The copy of the said order is marked as Exh. 'C'.

(iii) It is the further case of the applicant that even though the said order passed by this Tribunal dated 24.11.2023, the respondent authorities for no reason kept the matter pending and lastly by order dated 27.02.2024 reinstated the applicant on the post of Education Officer (Secondary), Zilla Parishad, Parbhani and the applicant was permitted to join. Thus the applicant has joined on the post on 01.03.2024. The copy of the joining report is marked as Exh. 'E'.

(iv) It is the further case of the applicant that after joining the post on 01.03.2024 surpassingly on 11.03.2024 (Exh. 'F')

in the evening, after working hours the applicant has received order issued by the respondent No.2 whereby the applicant came to be transferred from the post of Education Officer (Secondary), Zilla Parishad, Parbhani to the post of Assistant Commissioner, Maharashtra State Examination Council, Pune. The said order of transfer purported to have been passed under Section 4(4) (ii) and 4 (5) of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred to as "Transfer Act, 2005"). Hence, this Original Application.

4. Learned counsel for the applicant submits that it is clear case of victimization at the hands of the Government authorities for the reasons best known to them. The impugned transfer order passed by the respondent No.2 is not in consonance with the provisions of Transfer Act, 2005 as normal tenure of the posting is of three years and from 21.09.2021 till 11.03.2024 excluding the period of suspension, the applicant has not completed the normal tenure of three years. Pursuant to the order dated 27.02.2024 issued by the State Government the applicant has

joined on 01.03.2024 and hardly within ten days the impugned transfer order came to be passed which itself speaks about the victimization.

5. Learned counsel for the applicant submits that it is the case of the respondent authorities that after getting permission from the immediate competent authority, the applicant was transferred by duly following the provisions of Transfer Act, 2005. However, the same is not true. Learned counsel for the applicant submits that it is colorable exercise of powers with the sole intention to teach the lesson to the applicant. The Original Application deserves to be allowed.

6. Learned Presenting Officer on the basis of affidavit in reply filed on behalf of respondent No.1 submits that the impugned transfer order dated 11.03.2024 is issued in accordance with Rule by duly following the provisions of Section 4 (4) (ii) and 4 (5) of the Transfer Act, 2005. The transfer order has been issued after recommendation of the Civil Services Board. The transfer order was issued on account of administrative exigency and there is no malafide intention behind the transfer of the applicant. The learned P.O. submits that the copy of minutes of meeting of the Civil

Service Board is annexed to the reply marked as Annexure 'R-1'. Learned P.O. submits that there is no substance in the Original Application and the same is liable to be dismissed.

7. Undisputedly the applicant was not due for transfer at the time when the transfer order was issued. The impugned transfer order is midterm and mid-tenure. It is however shocking that in terms of the order passed by this Tribunal when the applicant came to be reinstated by revoking the suspension order as directed, within ten days, the respondents have transferred the applicant under the garb of administrative exigencies and the provisions of Transfer Act, 2005.

8. On careful perusal of the minutes of meeting of Civil Services Board dated 06.03.2024 (Annexure 'R-1') it appears that though it is noted in the chart that the applicant is not due for transfer, the applicant is required to be transferred on administrative exigencies. It is simply mentioned in the minutes of meeting of the Civil Services Board that the applicant was worked on the present post as Education Officer (Secondary), Zilla Parisahd, Parbhani for long and therefore, she has been recommended to be

transferred on administrative grounds. This cannot be justified on any ground.

9. I find much substance in the submissions made on behalf of applicant by his learned counsel that it is clear case of victimization. In my considered opinion, there is colorable exercise of powers with the sole intention to teach the lesson to the applicant. There are clear malafides in the impugned order of transfer. The order of transfer is not sustainable in terms of provisions of Section 4(4) and 4(5) of the Transfer Act, 2005 and the same is liable to be quashed and set aside. Hence, the following order:-

**ORDER**

- (A) The Original Application is hereby allowed.
- (B) The transfer order dated 11.03.2024 issued by the respondent No.2 is hereby quashed and set aside.
- (C) In the circumstances, there shall be no order as to costs.
- (D) The Original Application is accordingly disposed of.

**MEMBER (J)**

**Place:-Aurangabad**

**Date : 19.08.2024**

SAS O.A. 290/2024 (S.B.) Transfer.