

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 312 OF 2024  
WITH  
MISC. APPLICATION NO. 216 OF 2024  
(Subject:- Transfer)**

**DISTRICT:-DHULE**

**Vinod Arjun Wagh,** )  
Age 49 years, Occ. Service i.e. Sub Divisional )  
Office, P.W. Sub Division, Sakri, )  
R/o. 15 Vishnu Nagar, )  
Jaihind Colony Road, Deopur, )  
Tq. & Dist. Dhule. )  
Mob. No. 8459566473. )  
[Email.-waghvinod7@gmail.com.](mailto:waghvinod7@gmail.com) ) **APPLICANT**

**V E R S U S**

- 1. The State of Maharashtra** )  
Through the Additional Chief Secretary,)  
Public Works Department, )  
Mantralaya, Mumbai-400032. )
  - 2. The Superintending Engineer,** )  
Public Works Circle, Dhule, )  
Dist. Dhule. )
  - 3. Deepak Sadashiv Bangar,** )  
Age 51 years, Occ. Service i.e. Sub )  
Divisional Engineer, )  
Zilla Parishad (Works), Sub Division, )  
Alibag/Public Works Sub-Division, Sakri )  
Mob. 9722742990 )  
Permant Address: 7, Vakharkar Nagar )  
Tq. and Dist. Dhule. ) **RESPONDENTS**
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**APPEARANCE** : Shri Sachin S. Deshmukh, learned counsel for the applicant.

: Shri D.M. Hange, learned Presenting Officer for the respondent authorities.

: Shri N.L. Choudhary, learned counsel for respondent No.3.

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

**DATE** : **27.06.2024.**

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### **ORAL ORDER**

Heard Shri Sachin Deshmukh, learned counsel for the applicant, Shri A.P. Basarkar, learned Presenting Officer for the respondent authorities and Shri N.L. Choudhari, learned counsel for respondent No.3 finally with consent at admission stage.

2. By filing this Original Application the applicant is raising an exception to the order of transfer dated 15.03.2024 issued by the department effecting the transfer of the respondent No.3 in place of the applicant.

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

(i) The applicant joined the services as Junior Engineer (Civil) Group-B Non-gazetted on 17.07.1995 with the department. The applicant came to be promoted as Sub Divisional Officer (Civil) on 13.12.2022 at Public Works Sub Division, Sakri District. Dhule.

(ii) The normal tenure of the employee at a transferred place essentially and predominantly shall be of 3 years. The applicant has been transferred on account of the promotion at Sub Division Sakri District Dhule on 13.12.2022. The applicant has completed tenure of only 15 months.

(iii) By impugned communication dated 15.03.2024 which issued effecting the transfer of the respondent No.3 in place of the applicant, whereas the order of transfer of the applicant has not been issued. Hence, this Original Application.

4. Learned counsel for the applicant submits that on perusal of the language employed in the impugned communication dated 15.03.2024 indicates and establishes the fact that the place of transfer of the respondent No.3 would be in place of the actual vacancy of the applicant. Learned counsel for the applicant submits that the transfer of respondent No.3 in place of the applicant is effected and actuated at the instance of the Local M.L.A. who has requested on 31.08.2023 to the Hon'ble Chief Minister for

effecting the transfer of respondent No.3 at Public Works Sub Division Sakri, Dist. Dhule itself, where the applicant was working from 13.12.2022. The said order issued by the local MLA is marked as Annexure 'A-3'.

5. The said order in favour of the respondent No.3 by treating the post of the applicant as vacant is in contravention of the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005. Learned counsel for the applicant submits that in view of transfer order in favour of the respondent No.3, the transfer of the applicant is inevitable to accommodate the respondent No.3 in place of the applicant. Learned counsel for the applicant submits that the applicant is a person aggrieved within meaning of Section 3(q) of the Maharashtra Administrative Tribunals Act. Though the applicant has not received any transfer order, however, it is clear that the same has been issued to accommodate the respondent No.3 at the place where the applicant is working. Learned counsel for the applicant submits that the Original Application deserves to be

allowed by quashing and setting aside the impugned order dated 15.03.2024.

6. Learned Presenting Officer on the basis of affidavit in reply filed on behalf of respondent No.1 submits that the impugned order is aimed to effect the transfer of the applicant as a natural consequence and hence, the applicant is a person aggrieved within meaning of Section 3 (q) of the Maharashtra Administrative Tribunal Act since the same is in relation to the service of the applicant at Sub Divisional Officer, Public Works Sub Division, Sakri, Dist. Dhule.

7. Learned Presenting Officer submits that the respondent No.3 has made a request to respondent No.1 regarding his transfer from Kokan-2 Revenue Division to Nasik Revenue Division at any of the options either (i) Public Works Sub Division, Parola, Dist. Jalgaon. (ii) Zilla Parishad (Works) Sub Division, Sakri, Dist. Dhule or (iii) Public Works Sub Division, Manmad due to health issue of his mother who is suffering from Cancer. The respondent No.3 has also submitted the medical certificate issued by the Civil Surgeon, Dhule dated 10.06.2022.

8. Learned Presenting Officer submits that in terms of Rule 12 (1) of the General Administration Department's Division Allotment Rule, 2021, after allotment of Revenue Division the concerned officer can apply for change in Revenue Division only after completion of one year service in the allotted Revenue Division and on occurrence of major ailments to the officer himself or his or her spouse or children or father or mother, brother or sister includes the disease Cancer along with other diseases.

9. Learned Presenting Office submits that the medical reason given by the respondent No.3 for his transfer is permissible in terms of aforesaid Rule 12 (1) of the General Administration Department's Division Allotment Rules, 2021. However, as the respondent No.3 has not completed minimum period of one year at the present post, he is ineligible for transfer outside the Kokan-2 Revenue Division. But considering the medical reasons of his mother, the transfer of the respondent No.3 was proposed on the vacant post at Public Works Sub Division, Manmad by the Civil Services Board and further recommended to issue transfer

order of respondent No.3 after completion of 1 year tenure at the present post.

10. Learned Presenting Officer submits that the proposal of transfer of the respondent No.3 was placed before the Civil Service Board on 17.10.2023. The respondent No.3 being a Group –A officer and his transfer being mid-term and mid-tenure on medical grounds, the recommendation as aforesaid made by the Civil Services Board was submitted to the Higher Competent Authority and on receipt of the order from the Higher Competent Authority, the impugned order has been passed on 15.03.2024.

11. Learned Presenting Officer submits that this Tribunal has passed status quo order in the matter. Consequently, the transfer order of the applicant has not been issued. Learned P.O. submits that there is no substance in the Original Application and the same is liable to be dismissed.

12. The respondent No.3 has not filed the affidavit in reply to the Original Application, however, the respondent No.3 has filed the Misc. Application No. 216 of 2024. Learned

counsel for the respondent No.3 submits that the mother and wife of the applicant are suffering from cancer and therefore, considering the request of present respondent No.3, the respondent No.1 was pleased to pass the transfer order. Learned counsel for respondent No.3 submits that the applicant in the Original Application is protected by the interim order passed by this Tribunal and the respondent No.3 is already relieved from his division. Consequently, the respondent No.3 is neither working on his Revenue post nor joined the post as per his transfer order. The applicant and his family are suffering from hardship and financial losses. Learned counsel for respondent No.3 submits that appropriate order may be passed and the respondent No.1 may be directed to consider the application dated 27.05.2024 filed by the present applicant (respondent No. 3) to transfer him to another place in Nashik Region as similar post is vacant at Amalner, Dist. Jalgaon.

13. The minutes of meeting of Civil Services Board dated 16.10.2024 are placed before this Tribunal by the applicant in O.A. On careful perusal of the same it appears that the Civil Services Board has specifically observed that



the respondent No.3 Shri Deepak Sadashiv Bangar has not completed his normal tenure in terms of provisions of Section 3 (1) of Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 and as such, ineligible to transfer.

14. The Civil Services Board has also considered the provisions of Rule 12 (3) of the General Administration Department's Division Allotment Rule, 2021 and observed that the respondent No.3 has not completed one year of his tenure to become eligible for transfer inter-division. However, considering the health issues of family members of the respondent No.3 particularly his mother's disease of Cancer, it is observed that the respondent No.3 is completing one year on 10.11.2023 and on the basis of aforesaid health issue of the mother, he may be transferred at the vacant post at Public Works Sub Division, Manmad after 10.11.2023. It further appears that despite these specific recommendations of the Civil Services Board, without recording the reasons, the higher competent authority i.e. the Hon'ble Chief Minister has transferred the respondent No.3 at Public Works Sub Division Sakri, Dist. Dhule.

15. It is pertinent to note that neither the proposal of transfer of the applicant was placed before the Civil Services Board nor there is any recommendation to the extent of the applicant by the Civil Service Board. The applicant admittedly has not completed his normal tenure at Public Works Sub Division Sakri, Dist. Dhule. Surprisingly, by the impugned order dated 15.03.2024 the respondent No.3 came to be transferred and posted at the place where the applicant is working. Thus the impugned order is contrary to the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005.

16. Further the transfer of the respondent No.3 appears to have been recommended by the local M.L.A. Assuming that because of the severe illness of the mother of respondent No.3, the M.L.A. has recommended inter-division transfer of respondent No.3, however, respondent No.3 should have been posted at the place as recommended by the Civil Services Board. It is thus clear that to accommodate the respondent No.3, the impugned order has been passed illegally. I agree with the submissions made on behalf of

learned counsel for the applicant so also the learned P.O. has also accepted the same that the applicant is a person aggrieved within meaning of Section 3(q) of the Maharashtra Administrative Tribunals Act.

17. The respondent No.3 has filed the Misc. Application for giving suitable directions to the respondent No.1 about his transfer as he is presently not working anywhere. However, in the Original Application filed by the applicant no such directions can be given in connection with the case of respondent No.3. However, this Tribunal has sympathetically considered the plight of respondent No.3 on account of severe illness of the mother. Thus this Tribunal has directed the learned P.O. to take instructions in this regard. Learned P.O. has taken the instructions from the concerned respondent and made the statement that due to ongoing assembly session, no immediate order can be passed in connection with the transfer of respondent No.3 at the vacant post, however, the same will be considered positively after assembly session is over by following the prescribed procedure and considering the options exercised by the respondent No.3. Hence, the following order:-

**ORDER**

- (A) The Original Application No. 312 of 2024 is hereby allowed.
- (B) The impugned transfer order of respondent No.3 dated 15.03.2024 issued by the respondent authorities 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.
- (E) In terms of order passed in the O.A. No. 312/2024, nothing survives for further consideration in the Misc. Application and same is disposed of without any order as to costs.

**MEMBER (J)****Place:-Aurangabad****Date : 27.06.2024**

SAS O.A. 312/2024 (S.B.) Transfer