

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

ORIGINAL APPLICATION NO. 906 OF 2024

DISTRICT : JALGAON

Smt. Savita Bhaskar Nath,)
Age : 38 Years, Occu. : Service,)
R/o : Plot No. 16, Vidya Nagar, Shiv Colony,)
Bhusawal, Tq. Bhusawal, Dist. Jalgaon.)

.... APPLICANT

V E R S U S

The District Collector,)
At Jalgaon, Near Akashwani Center, Jalgaon.)

... RESPONDENT

APPEARANCE : Shri Y.H. Lagad, counsel holding for Shri D.R. Kale Patil, Counsel for the Applicant.

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

CORAM : **SHRI A.N. KARMARKAR, MEMBER (J)**

RESERVED ON : **19.03.2025**

PRONOUNCED ON : **04.04.2025**

O R D E R

1. By filing the present Original Application, the applicant has prayed for quashing and setting aside impugned transfer order dated 14.08.2024 issued by sole respondent thereby transferring the applicant from the post of Awwal Karkun from the office of Sub-Divisional Officer, Bhusawal to the post of Awwal Karkun in the office of District Collector, Jalgaon.

2. According to the applicant, in the year 2008 she has been appointed as Clerk on the establishment of District Collector Office, Jalgaon. In the year 2018, the applicant has been promoted as Senior Clerk and in the cadre of Awwal Karkun. General transfers were effected in the month of August-2024. Hence, the transfer could not be effected by respondent authorities in the months of April and May due to existence of code of conduct of Parliamentary Elections. As per G.R. dated 09.04.2018, the applicant had given her options for posting at Bhalod, Tq. Yawal, Faizpur, Kurhe, Tq. Bhusawal, Awwal Karkun in the office of Bhusawal Tahsil and Circle Officer at Nashirabad, Tq. Jalgaon. All these stations are within 15 to 20 kms from Bhusawal. The husband of the applicant is serving in Indian Railway Department and his service was not transferable. The applicant was called in Collector Office and chart was prepared, which shows that the priority would be given on the ground of couple convenience. Though the posts are vacant at the places mentioned by the applicant in her option form, the respondent has not considered it. There are certain guidelines in G.R. dated 09.04.2018 including priority on the ground of couple convenience. At the same time District Collector's order dated 28.03.2024, the list of employees, who are due for transfer was

published along with their seniority, wherein the applicant is at Sr. No. 1. The respondent has given go by to G.R. dated 29.10.2020, which speaks about equivalence of the post of Circle Officer, as well as, Awwal Karkun and their posts are interchangeable. In spite of it, the present applicant is transferred on same post as Awwal Karkun in the office of District Collector Jalgaon. According to the applicant, the option at Bhalod, Tq. Yaval as Circle Officer and another option as Awwal Karkun in Sub-Divisional Officer, Faizpur were convenient to the applicant, which was not considered by the respondent. Thus the applicant has prayed to allow the present Original Application.

3. Sole respondent has filed his affidavit in reply. According to him, at the time of general transfers of the year 2024, there was code of conduct due to Parliamentary Elections, 2024. So the State Government has issued letter dated 01.08.2024 to all Divisional Commissioner and District Collectors, thereby extended time limit for transfers till 15.08.2023. The applicant has already completed her tenure on the present post in the year 2023, but she was given extension till 2024. The applicant cannot claim choice posting as of right. The applicant has completed more than 11 years at Bhusawal

Headquarter and more particularly she was working at Bhusawal from 01.06.2013. The distance between Bhusawal and Jalgaon is 27 kms.

As per the order of Divisional Commissioner, Nashik dated 11.12.1995, there were 27 posts of Circle Officers, which can be filled from Awwal Karkun category and 27 posts of Awwal Karkun can be filled in from Circle Officer category. The category of Circle Officers was fulfilled and therefore, the claim of present applicant could not be considered. The respondents have already made counseling of the applicant before transfer and at that time the applicant herself has specifically asked for Jalgaon Collector Office. While passing order of issuance of notices, this Tribunal has passed order that if appointment is made on the post of Bhalod and Nashirabad, those will be subject to outcome of present Original Application. According to respondent, at the time of issuance of notices, the post of Circle Officer at Nashirabad was not vacant as one Mr. Deore has already taken a charge on 16.08.2024. Respondent was not in a position to give posting to the applicant at Bhalod because the post can be filled in only from Circle Officer category as mentioned in communication of Divisional Commissioner, Nashik dated 11.12.1995. According to respondent, he has followed the

procedure for making transfer. The respondent has called the Civil Services Board meeting on 14.08.2024. So the impugned order is proper.

4. Additional affidavit is filed by sole respondent. According to him, due to future Assembly Elections 2024, the respondent Collector has filled up the post of Circle Officer, Bhalod, Tq. Yawal, Dist. Jalgaon vide order dated 20.09.2024 subject to decision of the present Original Application.

5. The applicant has filed rejoinder affidavit (page No. 120 of paper book). According to the applicant, since her husband is working at Bhusawal, posting at least within 30 kms away should have been given to her. Actually she has also opted for Bhalod, Tq. Yawal. Though she was shown at Sr. No. 1 in seniority, she was not considered as per the policy of Government. One Mr. D.K. Patil, who was in supply division, has been transferred as Awwal Karkun in the office of Faizpur Division. Actually preference should have been given to the applicant. Said Mr. D.K. Patil was not due for transfer. Thus the applicant has prayed to allow the present Original Application.

6. I have heard Shri Y.H. Lagad, learned counsel holding for Shri D.R. Kale Patil, learned counsel for the applicant and

Shri D.M. Hange, learned Presenting Officer for respondent authorities. Both the parties have submitted have submitted as per their respective contentions.

7. It is undisputed fact that the applicant was serving as Awwal Karkun at Bhusawal at the time of passing of impugned order. It is also undisputed fact that due to existence of code of Conduct regarding Parliamentary Elections, no General Transfers were effected in the month of April-May. The respondent has contended in his affidavit in reply that the State Government has issued letter dated 01.08.2024 to all Divisional Commissioner and District Collectors about extension of time limit for transfers till 15.08.2023. The present applicant has contended in the Original Application that as per the Government policy and Resolution, she has given her options for counseling in view of G.R. dated 09.04.2018. The respondent has placed on record letter dated 01.08.2024 of the Government for taking steps regarding General Transfers till 15.08.2024.

8. The applicant has raised ground that she has given options of stations for her transfer, which were 15-20 kms from Bhusawal, where her husband is serving in Indian Railway Department and his service is not transferable. However, the

respondent has not considered the policy regarding couple convenience. As per G.R. dated 09.04.2018, certain guidelines are given by the Government, which are pertaining to transfer by counseling. The applicant herself has contended in the O.A. that she has given options of stations for her transfer. She has also contended that the respondent has prepared the list as per the seniority pertaining to the options given by them and other details. The applicant has also contended that she was called in the office of District Collector and it is mentioned in the list prepared by the respondent that priority in respect of ground of couple convenience would be considered. The respondent has also contended in his affidavit in reply that they have made counseling before transfer of the applicant. So it is clear that the applicant was present at the time of counseling before the transfer order.

9. It appears from the details given by the applicant in the form Scheduled-1 (Exhibit A-2, page No. 33 of paper book) that she was serving as Awwal Karkun either in Tahsil Office, Bhusawal or in the office of Sub-Divisional Officer, Bhusawal from 01.06.2013. The respondent has specifically contended in his affidavit in reply that in the year 2023, they have given extension of one year to the applicant. The applicant has referred

G.R. dated 09.04.2018. It will be appropriate to reproduce Stage No. 2 of this G.R. :-

“टप्पा क्र. २ : बदलीपात्र कर्मचाऱ्यांनी प्रतिवर्षी १५ एप्रिलपर्यंत बदली प्राधिकारी कार्यालयास सादर करावयाची माहिती :-

बदलीपात्र कर्मचाऱ्यांनी खालील मुद्यांबाबतची माहिती, सोबत जोडलेल्या विवरणपत्र- १ मध्ये भरून ती बदली प्राधिकारी कार्यालयास एप्रिल अखेर पर्यंत सादर करावी.

- * बदलीपात्र कर्मचाऱ्यांनी त्यांच्या पसंतीच्या ठिकाणी पदस्थापना मिळावी यासाठी कमाल १० ठिकाणांचा पसंतीक्रम सादर करावा (कर्मचाऱ्यांनी पसंतीक्रम न दिल्यास प्रशासनाच्या सोईनुसार त्यांची बदलीने पदस्थापना करण्यात येईल.) तसेच सदर पसंतीक्रमामध्ये किमान २ विकल्प अवघड क्षेत्रातील नमूद करण्यात यावेत.
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So it is clear from the said G.R. that the employee, who is due for transfer, is expected to give at least 10 options. It is also made clear that in case 10 options are not given, then the concerned employee will be posted as per the administrative need / convenience.

10. The respondent has contended that the applicant was called for counseling before transfer and at that time, the applicant herself has specifically opted for posting at Jalgaon Collector Office. This fact is not specifically denied by the applicant, though she has filed her rejoinder affidavit. The minutes of Civil Services Board meeting dated 14.08.2024 shows that the Divisional Commissioner, Nashik has approved

interchangeable 27 posts each from the cadre of Awwal Karkun and Circle Officer as per the letter dated 11.12.1995. It was also mentioned in the minutes of Civil Services Board that posts in the cadre of Circle Officer were already fulfilled. It is also mentioned in the minutes of CSB that about 25 Awwal Karkun and 04 Circle Officers were made aware about the vacant posts by showing it on screen. After having counseling, the Civil Services Board has recommended for posting as opted by the concerned employee. Name of the present applicant is also appearing at Sr. No. 2 in the said minutes of CSB (page No. 99 of paper book). It is also necessary to reproduce Clause No. IV of Stage No. 5 of G.R. dated 09.04.2018 :-

“टप्पा क्र. ५. समुपदेशनाद्वारे बदलीसंदर्भात नागरी सेवा मंडळाने अनुसरावयाची कार्यपद्धती :-

I.

II.

III.

IV. नागरी सेवा मंडळाने समुपदेशनाद्वारे बदलीची शिफारस करतांना कर्मचाऱ्यांचा पसंतीक्रम, प्राधान्यक्रम व यापूर्वी कोणकोणत्या ठिकाणी सेवा केली या बाबी विचारात घेतांना प्रशासनाची निकडदेखील विचारात घेणे आवश्यक असल्याने सर्वानाच पसंतीक्रमाच्या ठिकाणीच बदली करणे शक्य होणार नाही.”

Learned Presenting Officer has submitted that the place where the applicant is transferred is at the distance of less

than 30 kms from Bhusawal. This fact is not disputed by the applicant during the course of arguments.

11. The applicant has contended in her rejoinder affidavit that the respondents should have considered the object of G.R. dated 09.04.2018 and should have given posting to the applicant within the area of 30 kms. from Bhusawal. It is a matter of fact that it is always not possible for the concerned department to accommodate each and every employee as per the options given by them. It is already discussed that the applicant herself has not given 10 options as expected by G.R., which she has referred.

12. The applicant has raised another ground that the respondent has given go by and has not considered the provisions of G.R. dated 29.10.2020, which says about equivalence of the post of Circle Officer, as well as, Awwal Karkun. The said G.R. only says that their policy of transfer from the cadre of Awwal Karkun to Circle Officer and *vice versa* as per G.R. dated 21.11.1995 is continued. This G.R. dated 29.10.2020 (page No. 58 of paper book) also says that the provisions of Transfer Act, 2005 need to be complied. G.R. dated 09.04.2018 is pertaining to the guidelines as regards to General Transfers as given in Transfer Act, 2005. According to applicant,

the respondent has given go by to the provisions of G.R. dated 29.10.2020, but at the same time it cannot be ignored that the applicant is not complying the guidelines of giving 10 options.

13. The applicant has also contended that her options at Bhalod, Tq. Yaval as Circle Officer and as Awwal Karkun in Sub-Divisional Officer, Faizpur were convenient to her. The respondent has contended in his affidavit in reply that while issuing notices to the respondents in this matter, the post of Circle Officer at Nashirabad was not vacant as one Mr. Deore has already taken charge on 16.08.2024. Minutes of Civil Services Board itself shows that during the counseling Mr. Milind Deore, who is from the cadre of Circle Officer, has opted for Circle Officer Nashirabad, which is considered by the Civil Services Board.

The present applicant has contended in her rejoinder affidavit that one D.K. Patil, who was in Supply Department, was transferred as Awwal Karkun in the office of Sub-Divisional Officer, Faizpur. According to her, preference should have been given to the applicant for that posting. It is also contended that said D.K. Patil was not due for transfer. In the minutes of Civil Services Board meeting letters of Divisional Commissioner

Nashik dated 13.08.2024 and 12.08.2024 were referred. It is also mentioned that as per the letter of Collector, Jalgaon dated 04.08.2022 and in view of staffing pattern for Food, Civil Supply and Consumer Protection Department, said D.K. Patil was on deputation in Supply Department. So letter dated 14.08.2024 (page No. 124 of paper book) shows that Shri D.K. Patil was posted as Awwal Karkun, Sub-Divisional Officer office, Faijpur. It would be unsafe to comment in respect of posting of Shri D.K. Patil, particularly when the said employee is not the party respondent to the present Original Application. It also appears from the order of Divisional Commissioner, Nashik dated 12.08.2024 (page No. 125 of paper book) that one newly recruited candidate is posed as Supply Inspector in Tahsil Officer, Raver, where Shri D.K. Patil was working.

14. During the course of arguments, learned counsel for the applicant has relied on the judgment of Principal Seat of this Tribunal at Mumbai in **O.A. No. 701/2023 (Shri Nagannath Dashrath Jodh Vs. The State of Maharashtra and Anr.)**. In that matter though the applicant had given 10 options for choice postings which were admittedly vacant posts of Circle Officers at the relevant time, but he was transferred elsewhere. In the present matter, the applicant has only given five options. So this

case can be said to be distinguished on facts and cannot be made applicable to the present case. Learned counsel for the applicant has also placed his reliance on the judgment of this Tribunal in **O.A. No. 335/2018 (Suresh Mohanlal Jumaní Vs. The Additional Chief Secretary, Home Department and Anr.)**. It was the case of the applicant in said matter that he has rendered service for more than 6 years in the tribal and naxalite area and he is entitled for choice posting in view of G.R. dated 06-08-2002. But the guidelines given in the said G.R. were not considered. So the facts in that case are also different and cannot be made applicable to the present case.

15. The discussions in foregoing paragraphs lead me to say that the respondent has followed the necessary procedure for transfer of the applicant. The applicant also could not show that there are *mala-fides* or arbitrariness on the part of respondent while transferring the present applicant. The applicant herself has not disputed that the distance between Bhusawal and Jalgaon is more than 30 kms. Thus the present Original Application deserves to be dismissed. Hence, the following order :-

ORDER

The Original Application stands dismissed. There shall be no order as to costs.

(A.N. Karmarkar)
Member (J)

PLACE : Aurangabad
DATE : 04.04.2025

KPB S.B. O.A. No. 906 of 2024 ANK Transfer