

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 104 OF 2024
(Subject:- Transfer)

DISTRICT:- PARBHANI

Vishnu s/o Saloji Darade,)
Age 45 years, Occu. Service as Junior Clerk,)
R/o Raigad Nagar, Old Pedgaon Road,)
Parbhani Tq. and Dist. Parbhani.) **APPLICANT**

V E R S U S

1. **The State of Maharashtra,**)
Through its Secretary,)
Water Resources Department,)
Mantralaya, Mumbai-32.)
2. **The Superintending Engineer,**)
Vigilance Cell, Aurangabad Circle,)
Irrigation Department,)
Behind Old High Court Building,)
Snehnagar, Aurangabad-05.)
3. **The Superintending Engineer and**)
Administrator, Irrigation Department,)
Command Area, Development Authority,)
CADA Bhawan, Garkheda Road,)
Near Gajanan Maharaj Mandir,)
Aurangabad.)
4. **The Executive Engineer,**)
Jayakwadi Irrigation Division No.2,)
Karegaon Raod, Jayakwadi Camp,)
Parbhani, Dist. Parbhani.)
5. **The Sub Divisional Engineer,**)
Irrigation Sub Division No.1,)
Under Jayakwadi Irrigation)
Division No.2 Jayakwadi Vasahat,)
Parbhani, Tq. and Dist. Parbhani.)

- 6. The Sub Divisional Engineer,**)
 Sub Division Gangakhed under)
 Majlgaon Canal Division No.7 under)
 Beed Irrigation Project Circle,)
 Parli-Vaijnath, District Beed.)
- 7. Smt. Sanjeevani Chokhaji Ambekar,**)
 Age 46 years, Occu. Service,)
 R/o Jayakwadi Irrigation Division No.2)
 Jayakwadi Vasahat, Parbhani)
 Tq. and Dist. Parbhani.) **RESPONDENTS**

APPEARANCE : Shri Gajanan Kadam, learned counsel
 for the applicant.

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

: Shri H.P. Jadhav, learned counsel for
 respondent Nos. 3 & 4.

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

RESERVED ON : **01.08.2024.**

PRONOUNCED ON : **06.08.2024.**

ORDER

Heard Shri Gajanan Kadam, learned counsel for the applicant, Shri D.M. Hange, learned Presenting Officer for the respondent authorities and Shri H.P. Jadhav, learned counsel for respondent Nos.3 and 4 finally with consent at admission stage.

2. By filing this Original Application the applicant is seeking quashing and setting aside the transfer order dated 28.06.2023 issued by the respondent No.2 to the extent of applicant and also seeking quashing and setting aside the relieving letter dated 23.01.2024 which is not served on the applicant till 30.01.2024.

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

(i) The applicant is working as a Junior Clerk in Irrigation Sub Division No.1, Parbhani under Executive Engineer, Jayakwadi Irrigation Division No.2, Parbhani under Superintending Engineer and Administrator, Command Area Development Authority, Aurangabad. In terms of impugned transfer order dated 28.06.2023, the applicant along with other 32 employees came to be transferred due to administrative reasons in the general transfers of the year 2023. The applicant came to be transferred from Irrigation Sub Division No.1, Parbhani under Jayakwadi Irrigation Division No.2, Parbhani to Sub Division Gangakhed under Majalgaon Canchal Division No.7 under Beed Irrigation Project Circle, Parli-Vaijnath, Dist. Beed. Hence, this Original Application.

4. Learned counsel for the applicant submits that on 26.10.2023 the applicant has made the request to respondent No.4 stating therein that his mother is suffering from Blood Pressure and Diabetes and his widowed sister is suffering from Tuberculosis and there is no one in the family to look after them. The applicant has thus requested that he may be retained at Parbhani on the same post or on any different post.

5. Learned counsel for the applicant submits that the respondent No.7 was relieved from her post at Gangakhed and she has joined at vacant post available in the office of respondent No.4 immediately after the impugned transfer order. However, the applicant is not relieved from his original post as respondent No.7 is already accommodated on the vacant post of Junior Clerk in the office of respondent No.4. However, vide order dated 23.01.2024 which is not served upon the applicant till 30.01.2024, the applicant was directed to handover the charge to one Shri S.S. Gaikwad, Junior Clerk for joining on the post where the applicant is transferred. The applicant is allowed to work on his original post for more than seven months by the respondent

authorities as the respondent No.7 was already accommodated on the vacant post.

6. Learned counsel for the applicant submits that the respondent authorities have given the discriminatory treatment to the applicant. One Shri Sunil Dnyaneshwar Kakade and Shri Bhagwat Madhav Kavar both Class-III employees, office Clerk and Surveyor respectively got transferred on account of several complaints. However, they are not transferred out of circle whereas the applicant came to be transferred out of the Aurangabad Circle to Beed Circle.

7. Learned counsel for the applicant submits that even in the order of transfer on administrative grounds of the year 2023 for the Canal Inspector Category, no employee out of 35 employees came to be transferred out of Circle.

8. Learned counsel for the applicant submits that as per the revised guidelines enshrined in the Government Resolution dated 21.03.2013, the transfer of the Class-‘C’ employee out of the Circle is not permissible without assigning special reasons and without prior permission of the Government. Learned counsel for the applicant submits that

there is no administrative necessity to transfer the applicant from his post as there is already one vacant post of Junior Clerk under the office of respondent No.4. The transfer of the respondent No.7 seems to be on request. She has already been accommodated on vacant post of Junior Clerk at Parbhani. In view of same, the transfer of the applicant is no more required on any administrative ground.

9. Learned counsel for the applicant submits that one shri R.D. Kulkarni who also came to be transferred and placed above the name of applicant in the impugned transfer order though transferred out of Circle, however, by another order dated 13.12.2023 again given posting in Chh. Sambhajinagar. Learned counsel for the applicant on instructions makes a statement that though the impugned transfer order is passed, none of the employees has been relieved so far. Learned counsel for the applicant submits that the impugned transfer may kindly be quashed and set aside. The Original Application deserves to be allowed.

10. Learned Presenting Officer on the basis of affidavit in reply filed on behalf of respondent No.2 submits that the general transfers have been made by following the guidelines

as per G.R. dated 21.03.2013. As per the aforesaid G.R., the applicant has completed six years on the said post, hence due for general transfer. Thus the respondents have passed the order of transfer to the extent of applicant on the recommendation of the Civil Services Board- II meeting held on 29.05.2023. Learned Presenting Officer submits that the transfer of the said Sunil Dnyaneshwar Kakade and Bhagwat Madhav Kavar and other Group -C employees were as per the guidelines of the G.R. dated 21.03.2013.

11. Learned P.O. submits that even though the Circle is different, however, the transfer place of the applicant is hardly 38 k.m. away from his present working place and as such, the applicant can very well take care of his family members, if occasion so arises. Learned P.O. submits that there is no substance in the Original Application and the same is liable to be dismissed.

12. The applicant being a Government servant cannot question his transfer as a matter of right especially when the applicant has completed his tenure at the present place of working. It is well settled that an employee has no

fundamental right or a vested right to claim a transfer or posting of their choice.

13. There are certain riders to transfer the Group –C employee out of Circle in terms of G.R. dated 21.03.2013. However, those are mainly applicable to the employees who are subjected to mid-tenure transfer. There is no dispute that the applicant has completed his tenure of six years at the place where he is presently working and he was due for transfer. The Civil Services Board in its meeting has recommended the transfers of several employees including the applicant. It further appears that some of Group-C employees have cleverly given consent for their transfer out of Circle which is near to their Circle where they are presently working. It does not mean that the applicant has been given the discriminatory treatment. Similarly because of some administrative exigencies if one Shri R.D. Kulkarni is temporarily retained till further orders at Chh. Sambhajinagar even after his general transfer order out of Circle, the same aspect cannot be treated as a discrimination of the applicant. It is true that the respondent No.7 has joined the vacant post at Parbhani, however, at the same

time it cannot be ignored that the applicant has filed this present Original Application challenging his transfer order and further by order dated 13.03.2024 this Tribunal has also directed to the authorities to maintain status-quo as on today.

14. I find no mala-fide particularly in the transfer order of the applicant. The respondent authorities have scrupulously followed the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay In Discharging of Official Duties Act, 2005 so also the guidelines framed by the G.R. dated 21.03.2013. The applicant has failed to demonstrate that particularly due to some reasons he has been given discriminatory treatment. The applicant is just holding the post of Junior Clerk and there is no reason for the Civil Services Board to recommend his transfer out of Circle due to some malice or grudge. The applicant has already completed his tenure at present place of working i.e. more than 6 years and further, the office has taken care to transfer the applicant at the place which is just 38 k.ms. away from the present posting. In fact some Class-C employees have cleverly requested for the Circle which is

near to the Circle where they are presently working. However, without there being any request on the part of the applicant, the office has transferred him in the office at Gangakhed which is nearest Circle hardly 38 k.ms. away from the present place of working.

15. In view of same, I don't think that this is a fit case to interfere in the transfer order to the extent of the applicant. There is no substance in the Original Application and the same is liable to be dismissed. Hence, the following order.

ORDER

- (A) The Original Application is hereby dismissed.
- (B) In the circumstances, there shall be no order as to costs.
- (C) The Original Application is accordingly disposed of.

MEMBER (J)

Place:-Aurangabad
Date : 06.08.2024
SAS O.A. 104/2024 (S.B.) Transfer