

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 798 of 2023 (S.B.)**

Shri Maroti S/o Ramrao Kendre,
aged about 37 years, Occ. Service,
R/o. Pandey Layout, Gondia.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Department of Revenue and Forest,
Mantralaya, Mumbai-32.
- 2) The Collector, Gondia.
- 3) The Collector, Nanded.

Respondents.

Shri G.G. Bade, Advocate for the applicant.
Shri A.P. Potnis, learned P.O. for respondents.

Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.

Dated :- 09/07/2024.

J U D G M E N T

Heard Shri G.G. Bade, learned counsel for the applicant
and Shri A.P. Potnis, learned P.O. for the respondents.

2. The applicant is working as a Circle Officer at Gondia. The applicant requested for inter district transfer / requesting to transfer him at Nanded. Respondents have not considered his request and therefore, the applicant approached to this Tribunal for the following reliefs –

“ (9) (i) quash and set aside the letter dated 24/03/2023 issued by the respondent no.3 and thereby direct the respondent no.3 to absorb the applicant as Circle Officer, in Nanded District, in the interest of justice.

(10) The applicant is seeking stay to the effect and implementation of order dated 24/03/2023 issued by the respondent no.3, during the pendency of the present original application, by directing respondent no.3 to reconsider the request of the applicant.”

3. The O.A. is strongly opposed by the respondents. It is submitted that no post is vacant at Nanded, therefore, the applicant cannot be transferred on his own request. Hence, the O.A. is liable to be dismissed.

4. During the course of submission, the learned counsel for applicant has pointed out the G.R. dated 15/05/2019 and submitted that as per this G.R., the applicant is entitled to get inter-district transfer.

5. As per the submission of learned counsel for applicant, the Appointing Authority at Gondia had given NOC to transfer him from Gondia to Nanded, but the Appointing Authority at Nanded not given any such Certificate and therefore he is not transferred to Nanded.

6. The conditions in the said G.R. are very clear that inter-district transfer cannot be claimed as of right. The post where he wants inter-district transfer should be vacant. As per Clause 8 (1), (2)

& (3) of the G.R. dated 15/09/2019, the following conditions are to be fulfilled –

८.	कायमस्वरुपी समावेशनासाठी अटी व शर्ती :-
(१)	विनंतीवरून कायमस्वरुपी समावेशन हा संबंधित कर्मचाऱ्याचा हक्क नाही. प्रशासनाचे हित, सार्वजनिक सेवेचे हित विचारात घेऊन , संबंधित कर्मचाऱ्याच्या विनंतीवरून त्याचे अन्य कार्यालयात कायमस्वरुपी समावेशन करण्यास परवानगी /मंजूरी द्यावी किंवा कसे याचा आणि कायमस्वरुपी समावेशनाद्वारे संबंधित कर्मचाऱ्यास त्यांच्या कार्यालयात घ्यावे किंवा कसे याचा निर्णय घेण्याचा पूर्ण अधिकार संबंधित नियुक्ती प्राधिकाऱ्यांना राहिल.
(२)	संबंधित कर्मचारी ज्या कार्यालयात कार्यरत असेल, त्या कार्यालयातील त्याच्या नियुक्ती प्राधिकाऱ्यांची, त्याचे अन्य कार्यालयात कायमस्वरुपी समावेशन करण्यास, तत्त्वतः मान्यता मिळणे आवश्यक राहिल. तसेच, ज्या शासकीय कार्यालयात कायमस्वरुपी समावेशन करण्याची विनंती केली आहे, त्या कार्यालयाच्या नियुक्ती प्राधिकाऱ्यांनी या संदर्भात ना-हरकत प्रमाणपत्र देणे आवश्यक राहिल.
(३)	या घोरणानुसार कर्मचाऱ्याची त्याच्या विनंतीनुसार एका नियुक्ती प्राधिकाऱ्याकडून दुसऱ्या नियुक्ती प्राधिकाऱ्याच्या कार्यालयात कायमस्वरुपी समावेशन करताना, संबंधित कर्मचाऱ्याची सदर संवर्गात ज्या मार्गाने (उदा. पदोन्नती / नामनिर्देशन) नियुक्ती झाली आहे त्या कोटयात पद उपलब्ध असणे आवश्यक आहे. सरळसेवेने नियुक्त झालेल्या कर्मचाऱ्याची पदोन्नतीच्या रिक्त पदावर, तसेच पदोन्नतीने नियुक्त झालेल्या कर्मचाऱ्याची सरळसेवेच्या रिक्त पदावर, कायमस्वरुपी समावेशन अनुज्ञेय राहणार नाही. उदाहरणार्थ:- १) एखादा कर्मचारी "लिपिक-टंकलेखक" पदावर पदोन्नतीने कार्यरत असेल आणि त्याने दुसऱ्या जिल्ह्यातील "लिपिक-टंकलेखक" पदावर कायमस्वरुपी समावेशनाची विनंती केली असेल तर संबंधित जिल्ह्यातील "लिपिक-टंकलेखक" संवर्गातील पदोन्नती कोटयातील रिक्त पदावरच कायमस्वरुपी समावेशन अनुज्ञेय राहिल. २) एखादा कर्मचारी "कर सहायक" या पदावर सरळसेवेने कार्यरत असेल आणि त्याने दुसऱ्या जिल्ह्यातील "कर सहायक" पदावर कायमस्वरुपी समावेशनाची विनंती केली असेल तर संबंधित जिल्ह्यातील "कर सहायक" संवर्गातील सरळसेवा कोटयातील रिक्त पदावरच कायमस्वरुपी समावेशन अनुज्ञेय राहिल.

7. As per Clause no.8 (3) for inter-district transfer, the post where he wants the transfer shall be vacant and the Appointing Authority at the transferred place shall give NOC to accommodate him at the request transfer place. As per the submission of respondents,

no post is vacant at Nanded and therefore the applicant cannot be transferred on his own request.

8. The learned counsel for applicant has pointed out the Judgment of this Tribunal in O.A.No.49/2023. This Judgment is not applicable in view of the G.R. dated 15/05/2019. The condition for inter-district transfer is not fulfilled, no post is vacant at Nanded. The Appointing Authority at Nanded has not given any NOC, therefore, the Government has not considered the request of the applicant for inter-district transfer from Gondia to Nanded. There is no illegality on the part of the respondents. Hence, the following order –

ORDER

(i) The O.A. is dismissed.

(ii) No order as to costs.

Dated :- 09/07/2024.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 09/07/2024.