

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 1005 of 2024 (S.B.)**

Smt. Deepali Dattaji Bansod,  
Aged about 42 years, Occupation Service,  
R/o near Hanuman Mandir, Durga Nagar,  
Manewada Road, Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Principal Secretary,  
Food & Civil Supply Mantralaya,  
Mumbai-400 032.
- 2) The Deputy Commissioner,  
Civil Supply, Office of the Divisional Commissioner,  
Old Secretariat Building, Civil Lines, Nagpur.
- 3) Snehal Rajendra Deshmukh,  
C/o Tahsil Office, Parshioni, District, Nagpur.

**Respondents.**

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**S/Shri D.M. Kakani, G.K. Bhusari, Advocate for the applicant.**  
**Shri A.M. Khadatkhar, learned P.O. for respondent nos.1 and 2.**  
**Shri A.D. Girdekar, learned counsel for resp. no.3 (Caveator).**

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

**Dated :- 08/10/2024.**

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**J U D G M E N T**

Heard Shri D.M. Kakani, learned counsel for the applicant,  
Shri A.M. Khadatkhar, learned P.O. for respondent nos.1 and 2 and  
Shri A.D. Girdekar, learned counsel for respondent no.3 (Caveator).

2. The learned P.O. has filed the application submitted by the Deputy Commissioner (Supply), Nagpur Division, Nagpur dated 04/10/2024. The learned P.O. submits that two weeks' time is required to file reply.

3. Yesterday this O.A. was heard. Looking to the urgency mentioned by the learned counsel for applicant, today this O.A. is kept for final hearing with understanding to the counsels that O.A. will be decided finally. Respondent no.3 was also well aware about filing of this O.A. Respondent no.3 had filed Caveat Application No.35/2024 on 07/10/2024. He was expecting that the applicant will approach to this Tribunal for cancellation / stay of the transfer order dated 04/10/2024.

4. The case of the applicant in short is as under –

The applicant was initially appointed in the year 2016 on the post of Supply Inspector. She was promoted to the post of Inspecting Officer on 06/09/2024. Thereafter, she was posted at Parshioni as per order dated 06/09/2024. The applicant had made representation on 07/09/2024. Her representation was considered by the Government as per order dated 10/09/2024. The applicant is posted at Nagpur. The applicant has joined at Nagpur as per her joining report dated 12/09/2024. Since then, the applicant was / is working at Nagpur.

5. Respondent no.3 was suspended by the authority for the charges of corruption etc. On revocation of suspension order, Respondent no.3 was reinstated and posted at Parshioni as per order dated 02/11/2023. Respondent no.3 is again posted at Nagpur as per order dated 04/10/2024. The applicant is not given any posting, but it is mentioned in the order that her order dated 06/09/2024 i.e. posting at Parshioni shall be treated for the posting of the applicant.

6. As per the submission of the applicant, that her son was / is studying in 12<sup>th</sup> Standard. The applicant is single mother and therefore as per the policy of the Government she was transferred to Nagpur. The Government has taken decision on her request as per order dated 10/09/2024 and she is posted at Nagpur.

7. Respondent no.3 is now transferred as per order dated 04/10/2024. It is submitted by the applicant that she was not due for transfer. She was transferred from Parshioni on her own request on the ground that she is single mother, her son is studying in 12<sup>th</sup> Standard. The Government has considered her request as per order dated 10/09/2024. There was no reason to change her posting from Nagpur to Parshioni. Therefore, applicant has approached to this Tribunal for the following reliefs –

*“ (7) (i) Quash and set aside the impugned order dated 4.10.2024 (Annexure A-1) issued in favour of Respondent No.3 by the Respondent*

*No.1 being illegal and contrary to the provisions of the Government decision dated 9<sup>th</sup> August, 2018 as well as contrary to the provisions of law;*

*(ii) Stay the effect and operation of the impugned orders dated 4.10.2024 (Annexure A-1 and Annexure A-2) during the pendency of the Original Application;*

*(iii) Call for the record of the Departmental Promotion Committee proceedings and the note-sheet put up by the Respondent No.1 pointing out therein that the post on which the Respondent No.3 is being transferred on request is not lying vacant. These documents are required for proper adjudication of the matter and to see that how the favourable treatment has been given to the Respondent No.3 by the authorities”*

8. There is no any reply by the side of respondent authorities. Respondent no.3 was well aware about the filing of this O.A. The learned counsel for Respondent no.3 had filed Caveat, therefore, he was well aware that the applicant will approach to this Tribunal. Yesterday the O.A. was heard and it was made clear that the O.A. will be decided finally today.

9. The learned P.O. has requested to adjourn this O.A. for two weeks. The applicant has not handed over the charge. As per submission of Respondent no.3, he has joined at Nagpur. The joining of the respondent no.3 is disputed because the transfer order is dated 04/10/2024. As per submission of learned counsel for applicant, in the night on 04/10/2024, Respondent no.3 has given the joining letter. Therefore, the applicant is not relieved by the respondents. She has not handed over charge to Respondent no.3 as per the Rule 31 of the

Maharashtra Civil Services (General Conditions of Services) Rules, 1981, therefore, prayed to allow the O.A.

10. There is no dispute that the applicant was transferred on her own request from Parshioni to Nagpur as per order dated 10/09/2024. Respondent no.3 was transferred to Parshioni after revocation of the suspension order from Yavatmal District. Respondent no.3 was also not due for transfer to transfer him from Parshioni to Nagpur. Respondent no.3 has joined at Parshioni in the month of November,2023. On request of Respondent no.3 again he is transferred to Nagpur within one year as per order dated 04/10/2024. Therefore, it appears that the impugned transfer order is not legal and correct. The applicant has not completed her normal tenure. She has taken the charge at Nagpur on 12/09/2024. Within one month she is transferred as per order dated 04/10/2024. There is no separate transfer order, but in clause-6 of the transfer order dated 04/10/2024 it is mentioned that her earlier transfer order to Parshioni dated 06/09/2024 shall be posting order.

11. There is no dispute that Respondent no.3 was suspended by the respondent authorities on the ground of corruption / registration of crime under the Prevention of Corruption Act. Respondent no.3 is reinstated after revocation of the suspension order. He was posted at Parshioni in the month of November, 2023. Nothing is pointed out by

the side of respondent authorities what was the reason for transferring respondent no.3 at Nagpur. The applicant was transferred to Nagpur on a specific ground. She had made representation stating that she is a single mother and her son is studying in 12<sup>th</sup> Standard. The Government has considered her request and posted at Nagpur as per order dated 10/09/2024. Nothing is on record to show that whether there was any complaint against her to transfer within one month from Nagpur to Parshioni.

12. During the course of submission the learned counsel for respondent no.3 has submitted that the representation of respondent no.3 was considered by the Government along with other similarly situated employees. Respondent no.3 is not the only person, but total 10 persons were transferred.

13. The question is that the Government has considered the request of applicant, she was posted from Parshioni to Nagpur. How the respondent authorities has again considered the representation of Respondent no.3. There was no post vacant at Nagpur. The applicant was already posted at Nagpur. She was not due for transfer. She had taken charge in the month of September,2024. On 04/10/2024, respondent no.3 is transferred in her place.

14. The learned counsel for applicant has pointed out the G.R. dated 09/04/2018. The material part of the G.R. is reproduced below –

**“मुदतपूर्व व मध्यावधी बदल्या - मुदतपूर्व व मध्यावधी बदल्या या प्रामुख्याने प्रशासनाची निकड किंवा कर्मचाऱ्यांकडून प्राप्त विनंती अर्ज या कारणास्तव वर्षभर चालू राहणारी प्रक्रिया आहे. तसेच अशा स्वरूपाच्या बदल्या करतांना प्रशासनाची निकड ही एखादे ठराविक रिक्त पद भरणे अशा स्वरूपाचीच असल्यामुळे अशा बदलीसाठी समुदेशनाची आवश्यकता राहत नाही. त्याचप्रमाणे कर्मचाऱ्याची विनंती बदलीसाठीची मागणी ही एखाद्या ठराविक ठिकाणी बदलीसाठी असल्यामुळे सदर ठिकाणी पद रिक्त असेल तरच संबंधित अर्जाचा विचार करता येतो अन्यथा विनंती अर्ज विचारात घेता येऊ शकत नाही. त्यामुळे अशा बदलीसाठी समुपदेशनाची आवश्यकता राहत नाही. सबब, मुदतपूर्व व मध्यावधी बदल्या या समुपदेशनाच्या धोरणानुसार करण्यात येणार नाहीत.”**

15. As per the above cited G.R., when the post is not vacant then the request transfer cannot be considered. The applicant was already transferred. She was posted at Nagpur. The applicant had taken charge at Nagpur in the month of September, 2024. There was no post vacant, then question arises as to how the Government has considered the request of respondent no.3. The G.R. is very clear. As per the G.R. dated 09/04/2018 when the post is not vacant, then request transfer cannot be considered.

16. The applicant was not due for transfer. Respondent no.3 was also not due for transfer. The applicant was transferred to Nagpur on her own request. Her request was considered by the Government / Respondent nos.1 and 2. Respondent no.3 was transferred to Parshioni in the month of November, 2023. He was not due for transfer. The post at Nagpur was not vacant. As per the above cited G.R., transferring respondent no.3 in place of applicant is not legal

and correct. Hence, prima facie it appears that the impugned order dated 04/10/2024 is illegal and therefore liable to be quashed and set aside. With these findings, following order is passed –

**ORDER**

(i) The O.A. is allowed.

(ii) The impugned order dated 04/10/2024 of respondent no.3 transferring him from Parshioni to Nagpur is hereby quashed and set aside.

(iii) No order as to costs.

**Dated** :- 08/10/2024.

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**(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 Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 08/10/2024.