

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 1071 of 2023****WITH CIVIL APPLICATION No.243 of 2024 (S.B.)**

Aarti w/o Ashokrao Wahikar,  
[Malti d/o Rameshrao Murekar], Aged 53 yrs.,  
Occ. Service as Public Health Nurse, Govt. Medical College,  
Chandrapur, Permanent r/o Plot No.7, Shesh Nagar,  
Near Water Tank, Kharbi Road, Nagpur- 440009  
Mobile No.9146782019.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
Through its Secretary, Ministry of Medical Education having its  
Office on the 9th Floor, Gokuldas Tejpal Hospital Campus,  
Lokmanya Tilak Marg, New Mantralay, Mumbai-01.  
Email ID:medd-nursing@ mah. gov.in
- 2) The Commissioner (Medical) Education and Research,  
Mumbai having his office on the 4th Floor,  
Government Dental College & Hospital Building,  
P D Mello Road, Fort, Mumbai 400001  
(Near V.T, Near St George Hospital Compound, Near CST).
- 3) The Director of Medical Education and Research,  
Directorate Education of Medical and Research,  
Mumbai having his office on the 4th Floor,  
Government Dental College & Hospital Building,  
P D Mello Road, Fort, Mumbai 400001  
(Near V.T, Near St George Hospital Compound, Near CST).
- 4) The Dean,  
Government Medical College and Hospital,  
Chandrapur  
gmcchandrapur@gmail.com Fax No. 07172-277103  
Telephone No. 07172-277104 Website: [www.gmcchandrapur.org](http://www.gmcchandrapur.org)
- 5) The Dean,  
Indira Gandhi Medical College and Hospital,  
Nagpur-440009.

6) Darshana Wasudeo Gondane,  
Aged 53 yrs., Occ. Service as Public Health Nurse,  
Govt. Medical College, Gondia and presently posted Public Health  
Nurse at Govt. Medical College & Hospital at Nagpur,  
Tah. & Dist. Nagpur-440009 through the Dean, Government Medical  
College and Hospital, Nagpur.

**Respondents.**

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**Shri Sarang Malode, Advocate for the applicant.**  
**Shri M.I. Khan, learned P.O. for respondent nos. 1 to 5.**  
**S/Shri M.S. Wakil, S.G. Bhagat, S. Khan, V.W. Gondane, Advs. for**  
**respondent no.6.**

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

**Dated :- 01/07/2024.**

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**JUDGMENT**

Heard Shri Sarang Malode, learned counsel for the  
applicant, Shri M.I. Khan, learned P.O. for respondent nos.1 to 5 and  
V.W. Gondane, learned counsel for respondent no.6.

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

The applicant joined as a Staff Nurse on 15/01/1999 at  
G.M.C. and Hospital, Nanded. She was continued in service at  
Nanded till 2005. Thereafter, the applicant was transferred to Dr.  
Babasaheb Ambedkar Anusandhan Kendra, Indora, Kamptee Road,  
Nagpur, where she continued to work upto 2/11/2018. On 24/10/2018,  
the applicant was transferred to G.M.C. and Hospital, Chandrapur  
where she is working from 3/11/2018. Till date she is working at  
Chandrapur. The applicant has completed near about 5 years at

Chandrapur. Therefore, the applicant has made request to the respondents as per letter dated 7/2/2023 to transfer her at Nagpur. Her request is not considered by the respondents, therefore, she has filed the present O.A. for the following reliefs –

*“(7) (A) By appropriate Order or direction, set aside & quash the transfer Order only to the extent of Darshana Wasudeo Gondane', the Non-Applicant No.6, whose name is mentioned at Sr. No.(1) at the end of said general transfer order for 48 persons named therein, communicated to the Non-Applicant No.2 through the Letter No. बदली-२०२३/प्र.क्र.५८/२३परिचर्या दिनांक ०६.०९.२०२३ at ANNEXURE -'A-1' by the Non- Applicant No.1, holding it to be illegally & arbitrarily inserted therein for extraneous considerations & allow this application by passing such other suitable order, as may be deemed just & proper, in the facts and circumstances of this case, directing the Non-Applicants No.1 to 5 to transfer the applicant from her present posting at G.M.C. & H. Chandrapur to I.G.M.C. & H. at Nagpur, in view of her request transfer application dated 07.02.2023 at ANNEXURE-'A-3', in the interest of justice;*

*B) Award cost of this Application to the Applicant & saddle the same on the Non-Applicants throughout;*

*(8) The Applicant is praying for interim relief, in the peculiar facts and circumstances of this case as the non- Applicant No.6 has not yet been relieved from her present place of working at Gondia and therefore, the post of Public Health Nurse post at I.G.M. C. & H at Nagpur is vacant, on which the Non-Applicant No.6 would have joined at Nagpur and Applicant can be accommodated at Nagpur on the said post as per the interim order of this Hon'ble Court & requesting this Hon'ble Tribunal to grant stay to the effect, operation & execution of the transfer Order only to the extent of Darshana Wasudeo Gondane', the Non-Applicant No.6, whose name is mentioned at Sr. No.(1) at the end of said general transfer order for 48 persons named therein, illegally & arbitrarily inserted therein for extraneous considerations, communicated to the Non-Applicant No.2 through the Letter*

*No. बदली-२०२३/प्र.क्र. ५८/२३परिचर्या दिनांक ०६.०९. २०२३ at ANNEXURE -'A-1' by the Non-Applicant No.1, till the decision of this application on merits or directing the parties to 'maintain status quo as on this date' till the decision of this application on merits."*

3. The respondents have strongly opposed the O.A. It is submitted that the applicant cannot claim transfer on request. The specific conditions are mentioned in the G.R. dated 6/8/2002. 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 6/8/2002 and submitted that as per this G.R., the employees who worked in naxalite / tribal areas for a continuous period of three years, they are entitled to get choice posting. Therefore, prayed for direction to the respondents to transfer the applicant at G.M.C., Nagpur.

5. The learned P.O. has pointed out the Judgment of the Hon'ble Supreme Court in the case of the ***Namrata Verma Vs. the State of Uttar Pradesh & Ors., decided on 06/09/2021*** and submitted that it is not for the employee to insist to transfer him / her at a particular place. It is for the employer to transfer an employee considering the requirement. The learned P.O. has also pointed out the specific conditions laid down in the G.R. dated 6/8/2002.

6. The learned counsel for the applicant has submitted that respondent no.6 is junior to the applicant, even though she is

transferred to Nagpur. She was posted to Gondia District. After two years, she was transferred to Nagpur. The applicant is senior and therefore she is entitled to get choice posting at Nagpur.

7. The seniority list is maintained by the employer for the purpose of promotion etc. The seniority list is not maintained for the purpose of transfer, therefore, the applicant cannot claim as being the senior to respondent no.6, she should be transferred at Nagpur. As per the G.R. dated 06/08/2002, the employees who are posted in naxalite area, are getting promotional pay. There is no dispute that the applicant is also getting promotional pay of the post. The applicant has completed 5 years service at naxalite area. Therefore, she can claim choice posting provided that she should give names of three districts as per the conditions laid down in the G.R. dated 6/8/2002. The conditions mentioned in the G.R. dated 6/8/2002 are reproduced below –

प्रचलित सवलत	सुधारीत सवलत
<p>(ड) बदलीसाठी पसंती: शासन परिपत्रक सामान्य प्रशासन विभाग, क्रमांक. टि आरएफ-२०००/एम-८/प्र.क्र.३/बारा, दिनांक ११ जुलै, २००० अन्वये खालीलप्रमाणे मार्गदर्शक सूचना निर्गमित केलेल्या आहेत.</p> <p>१) आदिवासी क्षेत्रात ३ वर्षे चांगले काम केलेल्या गट 'क' व गट 'ड' च्या कर्मचा-यांना त्यांच्या पसंतीच्या जिल्ह्यात सोईप्रमाणे नेमणूका देण्यात याव्यात.</p> <p>२) आदिवासी क्षेत्रात किमान २ वर्षे चांगले काम केलेल्या गट 'अ' व 'ब' च्या अधिकाऱ्यांना देखिल त्यांच्या पसंतीच्या</p>	<p>शा.नि.सा.प्र.वि.क्र.टीआरएफ-२०००/एम-८/प्र.क्र.३/बारा, दिनांक ११ जुलै, २००० अन्वये विहित केलेल्या १ ते ६ येथील मार्गदर्शक सूचनांमध्ये कोणताही बदल करण्याचे प्रस्तावित नाही.</p>

<p>जिल्हयात सोईनुसार नेमणूका देण्यात याव्यात.</p> <p>३) वरीलप्रमाणे पसंतीच्या जिल्हात बदली मिळण्यासाठी, आदिवासी क्षेत्रात काम करणाऱ्या अधिकारी/कर्मचारी यांनी उपरोक्त विहित कार्यकाळ संपण्यापूर्वीच किमान ३ महिने आधी त्यांच्या पसंतीच्या जिल्ह्यांची तीन नावे सक्षम प्राधान्यांना कळवावीत व त्याची प्रत तो कार्यरत असलेल्या क्षेत्राच्या जिल्हाधिकारी / विभागीय आयुक्त यांना देण्यात यावी.</p> <p>४) मात्र, महसूल व पोलिस विभागातील अधिकारी/कर्मचा-यांना त्यांच्या स्वतःच्या किंवा कुटुंबियांच्या नावे स्थावर मालमत्ता असलेली ठिकाणे वगळून त्यांच्या पसंतीच्या अन्य जिल्हयातील ठिकाणी नेमणूका देण्यात याव्यात.</p> <p>५) आदिवासी विकास विभाग व आदिवासी महामंडळातील अधिकारी / कर्मचारी यांच्या सेवा आदिवासी क्षेत्राकरीताच असल्यामुळे त्यांना तसेच स्थानिक रहिवाशी असलेल्या इतर विभागातील कर्मचारी यांना वरील सवलतीचा लाभ मिळणार नाही.</p> <p>६) अधिकारी/कर्मचारी यांचेकडून बदलीसाठी पसंतीक्रम प्राप्त होताच सक्षम प्राधिका-यांनी संबंधितांचा विहित कार्यकाल संपताच त्यांच्या पसंतीच्या जिल्हयात बदलीसाठी आवश्यक ती कार्यवाही करावी. काही प्रशासकीय कारणास्तव पसंतीच्या जिल्हयात लगेचच बदली करणे शक्य नसल्यास सक्षम प्राधिका- याने अशी प्रकरणे तातडीने वरिष्ठांचे / शासनाचे निदर्शनास आणून देवून त्यांचे आदेश प्राप्त करावेत व संबंधितास तसे कळवून त्यांना अन्यत्र बदली घावी. मात्र, असे करताना संबंधितांनी बदलीसाठी दिलेला पसंतीचा हक्क पुढील तीन वर्षांपर्यन्त कायम ठेवून या वाढीव कालावधीत पसंतीच्या जिल्हयात बदली देणे आवश्यक राहिल.</p>	
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8. The applicant cannot claim as of right to transfer her from Chandrapur to Nagpur. The Hon'ble Supreme Court in the case of the

***Namrata Verma Vs. the State of Uttar Pradesh & Ors. (cited supra)***

has held as under –

*“It is not for the employee to insist to transfer him/her and/or not to transfer him/her at a particular place. It is for the employer to transfer an employee considering the requirement.”*

9. In view of the Judgment of the Hon’ble Supreme Court in the case of the ***Namrata Verma Vs. the State of Uttar Pradesh & Ors. (cited supra)***, the applicant cannot insist the respondents to transfer her from Chandrapur to Nagpur.

10. The applicant is at liberty to claim choice posting as per the G.R. dated 6/8/2002 by complying the conditions laid down in the said G.R. Hence, the following order –

**ORDER**

(i) The O.A. is dismissed.

(ii) The C.A. is also disposed of.

(iii) No order as to costs.

**Dated** :- 01/07/2024.

**(Justice M.G. Giratkar)  
Vice Chairman.**

dnk.

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 : 01/07/2024.