

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 1207 of 2022 (S.B.)**

Kunal Dularam Pawar,  
aged about 39 years, Occupation: Service (Technical lab Assistant),  
R/o C/o Nitin Shirbhate Parvati Nagar No. 2, Road No. 2,  
Batkuli road, Amravati, Tah. & Dist. Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through it's Principle Secretary Higher &  
Technical Education Department,  
Mantralaya, Mumbai-32.
- 2) The Director Technical Education Department,  
3- Municipal Corporation Road, Mumbai.
- 3) The Joint Director Technical Education Department,  
Nagpur Govt. Polytechnic College Premises Sadar,  
Nagpur, Tah. & Dist. Nagpur.
- 4) The Joint Director Technical Education Department,  
Amravati, Govt. Polytechnic College Premises,  
Gadge nagar, Amravati-444603.
- 5) The Dean,  
Govt. Polytechnic College, Gadge nagar, Amravati,  
Tah. & Dist. Amravati-444603.

**Respondents.**

---

**Shri S.N. Gaikwad, Advocate for the applicant.**

**Shri M.I. Khan, learned P.O. for respondents.**

---

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

**Dated :- 30/07/2024.**

---

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

Heard Shri S.N. Gaikwad, learned counsel for applicant and Shri M.I. Khan, learned P.O. for respondents.

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

The applicant was appointed as a Technical Lab Assistant on 17/07/2015 at Government Polytechnic College, Nagpur. The wife of applicant is working in the Government department in Amravati Division, therefore as per the G.R. dated 15/05/2019 the applicant moved an application on 17/07/2020 for transfer from Nagpur Division to Amravati Division. In view of the application moved by applicant, respondent no.3 has called the 'No Objection Certificate' from respondent no.4 and also seeks the vacancy position as per roaster in Amravati Division. In response to it, respondent no.4 had forwarded communication dated 21/12/2020 whereby shown the vacancy position as per the roaster. The applicant was appointed from open category and one post is shown vacant from open category in Amravati Division. Respondent no.4 had given 'No Objection Certificate' and therefore the applicant was transferred from Nagpur Division to Amravati Division.

3. By the impugned order dated 06/12/2022, the applicant was / is transferred from Amravati Division to Nagpur Division on the ground that as per the G.R. dated 25/02/2022 the roaster is prepared

and the applicant is shown excess in Amravati Division, therefore, the applicant is transferred to Nagpur Division.

4. This Tribunal has granted interim stay to the impugned transfer order as per the order dated 09/12/2022. The applicant is still working in Amravati Division.

5. During the course of submission the learned counsel for the applicant has pointed out the consent given by respondent no.4. The information submitted by respondent no.4 about the vacancy of posts in Amravati Division. This information was supplied on 21/12/2020. As per letter dated 22/06/2021, respondent no.4 shown consent to accommodate the applicant from Nagpur Division to Amravati Division in open category as per the roaster dated 21/12/2020.

6. The applicant was transferred as per the order dated 6/7/2021. The applicant joined at Amravati Division on 22/07/2021.

7. As per the contention of the learned P.O., because of the G.R. dated 25/02/2022, the applicant is shown excess as per approved roaster, therefore, he is transferred from Amravati Division to Nagpur Division. It is pertinent to note that the G.R. is dated 25/02/2022. Before the said G.R., there was vacancy in the open category shown by respondent no.4 itself as per letter dated

22/06/2021. Now the respondents cannot say that there is no post vacant as per the roaster after the G.R. dated 25/02/2022.

8. The learned counsel for applicant has pointed out the vacancy position at page no.26. As per this vacancy position, 4 posts are vacant in Amravati Division.

9. The learned P.O. has submitted that 2 posts are vacant at Yavatmal and 2 posts are vacant at Murtizapur. The respondents are at liberty to post the applicant any on vacant post shown in the vacancy position (P-26). The respondents cannot say that there is no post vacant in Amravati Division. This vacancy position is not denied by the respondents. Hence, the following order –

**ORDER**

(i) The O.A. is allowed.

(ii) The impugned transfer order dated 02/12/2022 and order dated 06/12/2022 are hereby quashed and set aside.

(iii) No order as to costs.

**Dated** :- 30/07/2024.

**(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 : 30/07/2024.