

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 524 of 2023 (S.B.)**

Santosh Pundlikrao Dhapad,
Aged about 48 years, Occ. Service,
R/o Wadali Tah & Distt. Amravati.

Applicant.

Versus

1) The State of Maharashtra,
Through its Secretary, Revenue & Forest Dept.,
Mantralaya, Mumbai -32.

2) Conservator of Forest (Territorial),
Amravati Camp, Amravati.

Respondents.

N.R. Saboo, K.N. Saboo, Advocates for the applicant.

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

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

Dated :- 15/07/2024.

J U D G M E N T

Heard Shri N.R. Saboo, learned counsel for applicant and
Shri M.I. Khan, learned P.O. for the respondents.

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

The applicant is presently working on the post of Range
Forest Officer (RFO), Tiosa Range, Social Forestry Division, Amravati.
As per the Circular dated 11/05/2023, respondent, i.e., Conservator of
Forests issued instructions to provide options for transfer. The

applicant vide application dated 22/05/2023 submitted his options. As per the G.R. dated 09/04/2018, it is necessary for the respondent, Conservator of Forests to forward information of options submitted by the Government servant to the Civil Services Board who is expected to consider option and record the reasons for transfer.

3. The applicant is physically challenged person. The applicant is having 50% disability. Therefore, as per the G.R. dated 09/04/2018, he is entitled to get transfer/ posting as per his choice. The applicant had given choice / options as below –

- (i) Range Forest Officer, Melghat (Territorial), Paratwada.
- (ii) Range Forest Officer, Nisarga Nirwahan Sankul, Melghat Tiger Reserve, Amravati.
- (iii) Range Forest Officer, Warud Amravati Forest Division.
- (iv) Range Forest Officer, Ghatang Melghat (Territorial), Paratwada.

4. The applicant is transferred in the Mobile Squad at Melghat (Territorial), Paratwada. The applicant had not given choice for the said posting. Because of the disability he cannot move from one place to other in the Mobile Squad. Therefore, the applicant approached to this Tribunal for direction to the respondents to give him posting nearby Amravati as per the G.R. dated 09/04/2018.

5. The O.A. is strongly opposed by the respondents. In para-15 of the reply, it is submitted that the applicant had given the

options for posting at Melgaht (Territorial), Paratwada. Therefore, the applicant was given posting in the Melgaht (Territorial), Paratwada in the Mobile Squad. It is submitted that the option given by the applicant was considered by the Civil Services Board and as per the recommendation of the Civil Services Board, he was transferred to Melgaht (Territorial), Paratwada.

6. The Government has issued G.R. / guidelines to transfer the employee. As per the G.R. dated 09/04/2018, the handicapped employee shall be given posting as per his convenience. The material part of the said G.R. is reproduced below –

“ १. जे शासकीय कर्मचारी स्वतः अपंग आहेत :- अपंग व्यक्ती (समान संधी, संपूर्ण सहभाग व हक्कांचे संरक्षण) अधिनियम १९९५ व या संबंधात शासनाने वेळोवेळी निर्गमित केलेल्या आदेशानुसार जे कर्मचारी अपंग आहेत व यासंदर्भात ज्यांनी जिल्हा शल्य चिकित्सक तथा सक्षम प्राधिकाऱ्याचे प्रमाणपत्र दि. ३० एप्रिल पूर्वी बदली प्राधिकाऱ्याकडे सादर केल्यास त्यांची प्रशासकीय सोयीनुसार व पद उपलब्धतेनुसार त्यांच्या सोयीच्या ठिकाणी बदली करण्यात यावी.”

7. As per the above condition, the employee who produced the certificate of disability from the Civil Surgeon, then he should be transferred as per his convenience. The applicant had given options to transfer him at the following places –

(i) Range Forest Officer, Paratwada (Territorial).

(ii) Range Forest Officer, Nisarga Nirwahan Sankul, Melghat Tiger Reserve, Amravati.

(iii) Range Forest Officer, Warud (Territorial).

(iv) Range Forest Officer, Ghatag (Territorial).

8. The applicant had given option for transfer at Paratwada (Territorial), but the applicant is given transfer in the Mobile Squad, therefore, the applicant has challenged the impugned transfer order dated 30/05/2023.

9. The learned counsel for applicant has submitted that the impugned transfer order is liable to be quashed and set aside because the applicant never claimed to transfer him in the Mobile Squad at Melgaht (Territorial), Paratwada.

10. The applicant had given options to transfer him in Paratwada (Territorial), but he was transferred in the Mobile Squad. The said posting is movable from one place to other and therefore the handicapped person like the applicant is not in a position to travel frequently from one place to other. Therefore, stay was granted by this Tribunal to the impugned transfer order.

11. The learned counsel for applicant has filed documents. Those are taken on record. As per the Circular dated 15/03/2024, the applicant is shown due for transfer. The applicant has given options.

12. Looking to the conditions laid down in the G.R. dated 09/04/2018, the following order is passed –

ORDER

- (i) The O.A. is allowed.
- (ii) The impugned transfer order dated 30/05/2023 is hereby quashed and set aside.
- (iii) The respondents are directed to follow the G.R. dated 09/04/2018 and as per the conditions laid down in Schedule-I of the G.R., the applicant be given transfer as per his convenience.
- (iv) No order as to costs.

Dated :- 15/07/2024.

(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 : 15/07/2024.