

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO.1170 OF 2024 (S.B.)**

A.V. Patil

...**Applicant**

**Versus**

The State of Maharashtra & Ors.

...**Respondents**

Ms. Punam Mahajan, learned Counsel for the Applicant.

Mr. A.J. Chogule, learned Presenting Officer for the Respondents

Mr. S.S. Dere, learned Counsel for Private Respondent No.4.

**CORAM** : **SHRI A.N. KARMARKAR, HON'BLE MEMBER(J)**

**DATE** : **12.09.2024.**

**O R D E R**

1. Applicant who is working as Chief Officer in the office of Pune Housing and Area Development Board, Pune (PHADB), Pune is challenging the impugned order of his transfer dated 10.09.2024. Applicant is seeking stay to the effect and operation of the impugned order dated 10.09.2024.

2. It is submitted by learned Counsel for the Applicant that the G.Rs. dated 17.12.2016 and 16.02.2018 are duly applicable to the employee who is deputed. She has invited my attention to Clause 3 in G.R. dated 16.02.2018 which says that the deputation period shall be for the period of three years and this condition cannot be changed on the basis of movement order dated 26.05.2023 (Annexure-A4). Before repatriation, notice should have been given to the Applicant. It is submitted that the Applicant is due for retirement in August, 2025. So in view of Section 5(1)(a) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties, Act, 2005 (hereinafter referred as 'Transfer Act 2005' for brevity), the period of

deputation should have been extended. It is also submitted that in view of Section 4(4) of the Transfer Act 2005 the transfer should be in exceptional circumstances or for special reasons. During the arguments she has referred to the judgment of Dr. (Ms.) Padmashri S. Bainade Versus State of Maharashtra & Ors. in O.A.No.839/2014 decided on 13.10.2014.

3. On the other hand, learned P.O. Mr. Chougule has submitted that the deputation period of the applicant was already over on 24.05.2024. There was FIR by ACB against the Applicant also. There was also letter of Chairman of Housing Board for transfer of the Applicant. He has also submitted that the Applicant is relieved and he seeks time to file detail affidavit-in-reply.

4. Learned Counsel Mr. Dere has submitted orally that he has instructions on behalf of Respondent No.4 to appear and he undertakes to file vakalatnama on the next date.

5. According to him, applicant was given deputation for one year which he has accepted and no grievance was raised. He has referred to Clause (6) of G.R. dated 17.12.2016 which says that the Applicant who is on deputation has to be repatriated if his retirement is for less than two years. According to him, the deputation policy was introduced in the year 2016 which is subsequent to the judgment in O.A.No.839/2014 which is relied by learned Counsel Ms. Mahajan. So this judgment is not helpful to Applicant. In support of his submissions, learned Counsel for Respondent No.4 has relied on the judgment of Hon'ble Supreme Court in case of A.B. Krishna & Ors. Versus State of Karnataka and Ors. reported in (1998) 3 SCC 495 and judgment passed by this Tribunal in the case of Dr. Avinash G. Gote Versus The State of Maharashtra & Ors in O.A.Nos.451 & 453/2020 decided on 25.08.2021.

6. Though the applicant has submitted that as per G.R. dated 16.02.2018 the deputation period should be for three years, apparently

the applicant has not raised grievance after getting the deputation order dated 16.05.2023 (Annexure A-4). Clause 6 of G.R. dated 17.12.2016 suggests that a person on deputation should be repatriated to the original department, if he is due for retirement within two years.

7. Learned P.O. has also made available G.R. dated 25.05.2023 for perusal. It shows that the applicant was deputed for the period of one year or till the order of the Government, whichever is earlier. The impugned order shows that it was passed after considering several G.Rs and noting of Village Development Department. Learned Counsel for the Applicant has referred to Section 4(4)(ii) of the Transfer Act, 2005. But considering the impugned order and submissions it is necessary to have affidavit-in-reply of the Respondents before passing interim relief order, if any, as prayed.

8. The office objections, if any, are to be removed and court fees to be paid, if not already paid.

9. Issue notice before admission returnable on 20.09.2024.

10. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed. Respondents are put to notice that the case may be taken up for final disposal at the stage of admission hearing.

11. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

12. By Hand delivery, speed post, courier notice to be served and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

13. In case notice is not collected within seven days or service report on affidavit is not filed three days before returnable date, the Original Application shall be placed on board before the concerned Bench under the caption "for Dismissal" and thereafter on the subsequent date the Original Application shall stand dismissed.

14. Adjourned to 20.09.2024.

Sd/-

**(A.N. Karmarkar)**  
**Member(J)**

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