MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO.1238/2022 (S.B.)

Premchand s/o Bhagwan Ambhore,
Aged about 50 years, Occupation: Asst. Professor,
Government Engineering College, Amravati,
Resident of 1-A, Akshar Gruhanirman Society,
VMV Road, Near Narayan Nagar,
Amravati- 444604 District: Amravati.

... APPLICANT.

// V E R S U S //

1] State of Maharashtra,
Through its Principal Secretary,
Higher & Technical Education Department,
Mantralaya, Mumbai-32.

2] Director, Directorate of Technical Education (DTE),
M. S. 3, Mahapalika Marg, Mumbai 400 001.

3] Government Engineering College, Amravati,
District: Amravati through its Principal.

... RESPONDENTS.

S/Shri S.Y. Deopujari, S. Kulkarni, S. Phadnis, Gouri Deopujari, Advs. for the applicant.

Shri S.A. Sainis, P.O. for respondents.

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

Dated :- 26/11/2024.

J U D G M E N T

Heard Shri S.Y. Deopujari, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondents in O.A.No.1238/2022.

2. Heard Shri. P.S. Patil, learned counsel for the applicant and Shri A.P. Potnis, learned P.O. for the respondents in O.A. No. 1246/2022.

3. The case of the applicants in short is as under:

In both these Original Applications the applicants have challenged transfer order dated 14/12/2022. The applicant Premchand B. Ambhore (in O.A.No.1238/2022) was transferred in another Department stating that due to Administrative ground, he is transferred and post also became excess. The transfer of applicant Bhushan Wakode (in O.A.No.1246/2022) is shown on administrative ground and also shown excess. The applicant Bhushan Wakode was transferred from Amravati to Karad.

4. Both the applicants were transferred by the impugned order when they were not due for transfer. The transfer order is mid-term transfer. Therefore, this Tribunal has granted stay to the impugned order, as per order dated 20/12/2022. Both applicants are still working at Amravati. It is stated that the reasons given in the

transfer order are not correct. The transfer order is a mid-term transfer order. The transfer is not on administrative ground. There is no compliance of Sections 4 (4) and 4 (5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short “Transfers Act,2005). Therefore, the applicants prayed to quash and set aside the impugned transfer order dated 14/12/2022.

5. Both O.As. are strongly opposed by the respondents on the ground that the post of applicants at Amravati were excess and they were transferred to the places where the post were available. The transfer was on administrative ground. It is stated in the Para 3 of the reply that the applicants were due for transfer, they were transferred because they were excess at Amravati. It is submitted that the Civil Services Board No.1 recommended the transfer of the applicants. Therefore, applicants were transferred.

6. During the course of submission learned Advocates for the applicant Shri S.Y. Deopujari and Shri P.S. Patil both have submitted that this Tribunal has granted stay to the impugned transfer order. Both the applicants are working at Amravati. They are paid salary by the respondents because the posts are available with the respondents. Hence the reasons given in the impugned transfer order

is not correct. Learned Advocates for both the applicants have submitted that the proceeding of Civil Services Board is not filed on record and therefore the respondents cannot say that both applicants were recommended for transfer by the Civil Services Board. There is no dispute that it is a mid-term transfer. Hence, prayed to allow the O.As. and quash and set aside the impugned transfer order.

7. There is no dispute that this Tribunal has granted stay in both the Original Applications on the ground that transfer of both the applicants were mid-term transfer. In the reply it is stated that the Civil Services Board has recommended the transfer of both the applicants, but nothing is filed on record to show the Civil Services Board has recommended the transfer. It was for the respondents to file the copy of proceedings of the Civil Services Board, who recommended the transfer of both the applicants. There is no dispute that the impugned transfer order is mid-term transfer order. Nothing is on record to show that there is a compliance of Sections 4(4) and 4(5) of Transfers Act, 2005. Hence, the following order :-

O R D E R

(i) The O.A. No.1238/2022 and O.A. No.1246/2022 are hereby allowed.

(ii) The impugned transfer orders dated 14/12/2022 are hereby quashed and set aside.

(iii) No order as to costs.

Dated :- 26/11/2024.

(Justice M.G. Giratkar)
Vice Chairman.

PRM.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Piyush R. Mahajan

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 26/11/2024.