

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**


ORIGINAL APPLICATION NO.272 OF 2017

DISTRICT : THANE

Shri Kisan M. Isame.)
Age : 52 Yrs, Occu.: Service, Residing at)
"Matoshri Building", 1st Floor, Ganesh)
Nagar, Murbad, Tal. : Murbad,)
District : Thane.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through the Secretary,)
Tribal Development Department,)
Mantralaya, Mumbai - 400 032.)
2. The Commissioner for Tribal)
Development Adivasi Vikas Bhawan,))
1st Floor, Old Agra Road,)
Nashik - 422 002.)
3. Additional Commissioner for Tribal)
Development, Vardan Sankul)
(Wagale Estate), 9th Floor,)
Passport Office, Thane (W).)
4. The Deputy Commissioner for)
Tribal Development, Vardan Sankul,))
(Wagale Estate), 9th Floor,)
Passport Office, Thane (W).)

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5. The Project Officer.)
 Integral Tribal Development Project,)
 Near Ganaga Devasthan, At Wafe,)
 Tal.: Shahapur, Dist : Thane.)...**Respondents**

Shri L.S. Deshmukh, Advocate for Applicant.

Ms. S. Suryawanshi, Presenting Officer for Respondents.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 05.06.2017

JUDGMENT

1. The Applicant, a Teacher in the Secondary School of Ashramshala, having been transferred from Wangani to Dabosa questions the said order and seeks an order to be posted at Ashram School at Khutal, Taluka Murbad, District Thane or in the alternative to Dolkhamb, Taluka Murbad, District Thane or any other Government Ashram School in Shahapur Project.

2. I have perused the record and proceedings and heard Mr. L.S. Deshmukh, the learned Advocate for the Applicant and Ms. S. Suryawanshi, the learned Presenting Officer (PO) for the Respondents. The learned PO is being instructed by Mr. D.K. Nangare, Tribal Development Inspector.



3. The Applicant is, as already mentioned above working as a Secondary School Teacher in Ashram School. The place he had been working at and transferred from and to the places, have already been mentioned above. The Applicant had brought earlier an OA 179/2017 (Shri Kisan M. Isame Vs. State of Maharashtra and 3 Ors.) wherein he questioned the move of Respondent No.4 whereby the order of transfer dated 14th October, 2016 was not implemented. Thereby, the Applicant came to be transferred to Ashram School Khutal and that particular order was at Exh. 'A' (Page 8 of the said earlier OA). On 27th March, 2017, that OA was on Board of this Bench. The order of that date would show that, by then a fresh order of transfer of the Applicant of that very day was placed on record whereby the Applicant had been transferred to Dabosa. It is recorded in that day's order that, not only was the learned Advocate for the Applicant dissatisfied, but a little bitter about that transfer. But then, with liberty to bring another OA on the same cause of action, he withdrew the said OA and in exercise of his right reserved thereby, he brought the present OA. It is, therefore, quite clear that the main issue in this particular OA is the transfer of the Applicant to Dabosa. Legally the first order of transfer to Khutal having been made after following all proper procedure, it was not really open to



the Respondents to simply substitute one order of transfer by another order of transfer to Dabosa.

4. In as much as the service condition of transfer is statute regulated by the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (Transfer Act), in my view, it must be held that the Applicant had a vested right in being transferred to Khutal and if the authorities wanted to make any change therein, then they should have observed the legal procedure which they apparently did not do, and therefore, in my opinion, the transfer to Dabosa is unsustainable. I do not think, any further discussion is necessary because the whole thing is so simple as that.

5. There was some debate at the Bar with regard to the place of posting that the Applicant should be given. I find from the record and this will be appropriate to consider on the practical side of the matter that, consideration of the alternative prayer of the Applicant would sub-serve the interest of both the sides. On instructions from the Officer above named, the learned PO informs that there is a vacancy at Dolkhamb, and therefore, instead of making an order which might further complicate the existing state of affairs, I should have

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thought that the better option would be to effectuate the alternative prayer so as to avoid delay, etc. and I am so disposed as to direct that the Applicant be posted at Dolkhamb.

6. The Respondent No.3 is hereby directed to issue orders of posting of the Applicant at Ashram School at Dolkhamb, Taluka Murbad, District Thane within a period of two weeks from today and let him report for work at that particular Ashram at Dolkhamb within one week thereafter. Liberty is reserved for the Applicant to make an appropriate application within two weeks of reporting for work at Dolkhamb for treating the period from 4.2.2017 till reporting for work at Dolkhamb as period spent on duty and for the salary, etc. of that period. The Respondent No.3 shall take this decision expeditiously preferably within a period of six weeks of the application made for it. The Original Application is allowed in these terms with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
05.06.2017

Mumbai
 Date : 05.06.2017
 Dictation taken by :
 S.K. Wamanse.