

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 398 OF 2023

(Subject:- Transfer)

DISTRICT:-NANDED

Sanjay Ramalu Betiwar,)	
Age : 50 Yrs., Occ : Service)	
as Sports Officer at Nanded,)	
R/o Gat No. 140, Plot No. 18/B,)	
Tulshiram Nagar Patil, Malegaon Road,)	
Nanded.)	
Mobile No.: 9850189704.)	
e-mail: sanjaybetiwar@gmail.com)	APPLICANT

V E R S U S

- | | | | |
|-----------|---|---|--------------------|
| 1. | The Commissioner of Sports |) | |
| | & Youth Services, (M.S.), |) | |
| | Shiv Chhatrapati Sports Complex, |) | |
| | Mahalunge, Balewadi, Pune-411 045. |) | |
| | Dsysdesk1 @ gmail.com |) | |
| 2. | The Dy. Director of Sports |) | |
| | & Youth Services, (M.S.), |) | |
| | Shiv Chhatrapati Sports Complex, |) | |
| | Mahalunge, Balewadi, Pune 411 045. |) | |
| 3. | The District Sports Officer, Nanded, |) | |
| | Gokul Nagar Area, District Sports |) | |
| | Complex , Shri Guru Govind Singh |) | |
| | Stadium Area, Indore Hall, |) | |
| | Nanded 431602 |) | |
| | dsonanded @rediffmail.com |) | RESPONDENTS |

APPEARANCE	:	Shri Ajay S. Deshpande, learned counsel for the applicant.
	:	Shri D.M. Hange, learned Presenting Officer for the respondent authorities.

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 26.04.2024.

O R A L - O R D E R

Heard Shri Ajay S. Deshpande, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities finally with consent at admission stage.

2. By way of this Original Application the applicant is seeking quashing and setting aside the impugned order dated 31.05.2023 at Annexure 'A-8'.

3. The applicant is working as a Sports Officer with the respondents. By order dated 18.05.2023, when the applicant become due for transfer, the applicant came to be transferred on administrative grounds from Hingoli (Parbhani) to Nanded. On 23.05.2023, the Hingoli Office had relieved the applicant to report at Parbhani and by order dated 25.05.2023, the applicant stood relieved by District Sports Officer, Parbhani for joining at Nanded. Accordingly, on 26.05.2023 the applicant had joined at Nanded and report to that effect has been forwarded to respondent Nos. 1 & 2. By impugned order dated 31.05.2023 (Annexure 'A-8'), the

applicant came to be transferred from District Sports Officer Office, Parbhani (service Hingoli) to District Sports Officer Office, Beed. Hence, this Original Application.

4. Learned counsel for the applicant submits that in terms of recommendation made by the Civil Services Board in the meeting dated 16.05.2023, by order dated 18.05.2023 in the general transfer after considering the choice of the place of transfer exercised by the applicant, the applicant came to be transferred from the post of Sports Officer, District Sports Officer Office, Parbhani (service Hingoli) to Sports Officer, District Sports Officer Office, Nanded. However, within few days thereafter, the applicant came to be transferred from the post of Sports Officer, District Sports Officer Office, Parbhani (service Hingoli) to the post of Sports Officer, District Sports Officer Office, Beed ignoring that in terms of order dated 18.05.2023, the applicant has already joined the place of transfer at Nanded.

5. Learned counsel for the applicant submits that it is ridiculous that in the order dated 31.05.2023 the place of present working of the applicant is shown as District Sports Officer Office, Parbhani instead of showing it District Sports Officer Office, Nanded. Learned counsel for the applicant

submits that even no further meeting of the Civil Services Board was called for this purpose and from the impugned order it is not reflected that the said order has been passed by way of modification. Learned counsel for the applicant submits that this Original Application deserves to be allowed by quashing and setting aside the order dated 31.05.2023 (Annexure 'A-8').

6. Learned Presenting Officer for the respondent authorities submits that the respondent No.1 is Competent Authority to transfer the Sports Officer, Group B Non-Gazetted post and by exercising the said powers, the respondent No.1 by order dated 31.05.2023 transferred the applicant to the office of District Sports Office, Beed considering the vacancy available in the aforesaid office during the period.

7. Learned Presenting Officer, however, has fairly accepted that there is no further meeting of the Civil Services Board to consider the vacancy arisen in District Sports Officer Office, Beed to transfer the applicant again. Learned Presenting Officer submits that the Original Application is liable to be dismissed.

8. By order dated 05.06.2023 while issuing the notices to the respondents this Tribunal has elaborately considered the issue involved in this matter and further expressed disinclination to consider the submissions made by the then learned Chief Presenting Officer that the impugned order is infact modified transfer order in supersession of earlier transfer order dated 18.05.2023.

9. It is the part of the record which is also not disputed by the respondents that in terms of general transfer order dated 18.05.2023, the applicant was relieved from the office of District Sports Officer Office, Parbhani on 25.05.2023 after office hours and he immediately reported at Nanded on 26.05.2023 during first hour, in compliance of the order dated 18.05.2003. The copy of the joining report in the office of respondent No.3 i.e. District Sports Officer Office, Nanded dated 26.05.2023 is marked as Annexure 'A-6'. I agree with the submissions made on behalf of the applicant that the order dated 18.05.2023 is complied with.

10. In view of same, on perusal of the impugned order dated 31.05.2023 it is pertinent to note that the place of present working of the applicant is shown at District Sports

Officer Office, Parbhani (service Hingoli) for transfer him to District Sports Officer Office, Beed. Admittedly, no meeting of Civil Services Board has been called out to consider the need of filling of the vacancy at District Sports Office, Beed in terms of the communicated dated 25.05.2023 (Annexure 'R-1'). There is nothing on record to show that the impugned order dated 31.05.2023 is a modified transfer order. I do not find any substance in the submissions made on behalf of the respondents that the respondent No.1 is Competent Authority to transfer the Sports Officer, Group B Non-Gazetted post in terms of Section (6) Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of official Duties Act, 2005 (in short 'Transfer Act, 2005'). In terms of Section 4(4) and (5) of the said Transfer Act, 2005 if the transfer is required to be made midterm or mid-tenure, certain procedure is prescribed and in terms of Sub Section (5) of Section (4) the reference has been given to table of Section (6) as to who shall be the Competent Authority to transfer the Government servant before completion of his tenure of posting.

11. In the instance case, without following the procedure of said Transfer Act, 2005 by way of impugned

order dated 31.05.2023 the applicant has been transferred. Thus the impugned order is required to be quashed and set aside. Hence, the following order:-

ORDER

- (A) The Original Application is hereby allowed.
- (B) The impugned order dated 31.05.2023 at Annexure 'A-8' is hereby quashed and set aside.
- (C) The respondents are directed to allow the applicant to discharge the duties as Sports Officer under respondent No.3 at Nanded, against any of the existing vacancies, without creating any impediment.
- (D) In the circumstances there shall be no order as to costs.
- (E) The Original Application is accordingly disposed of.

MEMBER (J)

Place:-Aurangabad
Date : 26.04.2024
SAS O.A. 398/2023(S.B.) Transfer