

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 974/2024 (S.B.)

Shri Ashish S/o Prabhu Pawar,
Aged about 44 years, Occ. Service,
R/o Sawarkar Nagar, Chikhali,
Dist. Buldhana.

Applicant.

Versus

- 1) The State of Maharashtra,
Through the Secretary,
Department of Rural Development,
Mantralaya, Mumbai - 32.
- 2) The Divisional Commissioner,
Amravati Division,
Amravati.
- 3) The Collector,
Buldhana.
- 4) The Chief Executive Officer,
Zilla Parishad,
Buldhana.

Respondents

Shri G.G.Bade, Id. Advocate for the applicant.

Shri A.M.Khadatkar, Id. P.O. for the Respondents 1 to 3.

None for the Respondent no. 4.

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

Dated :- 23.10.2024.

JUDGEMENT

Heard Shri G.G.Bade, ld. counsel for the applicant and Shri A.M.Khadatkar, ld. P.O. for the Respondents 1 to 3. None for the R-4.

2. Case of the applicant in short is as under:-

The applicant was appointed as a Block Development Officer as per order dated 09.06.2014. Thereafter applicant was promoted as Deputy Chief Executive Officer, Group-A as per order dated 24.05.2022. The applicant was posted as Deputy Chief Executive Officer, Z.P., Buldhana. In view of the General Election the applicant is appointed as Sector Officer (P. 33). The respondents have not followed guidelines of Election Commission of India and he is transferred to Pusad, therefore, approached to this Tribunal for following relief:-

i) Quash and set aside the impugned transfer order dated 25.09.2024 (A-1) issued by the respondent no. 1.

ii) Grant any other relief, which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case so also, in the interest of justice.

3. It is submitted by ld. P.O. that applicant is working in Buldhana since 2016. The Civil Services Board has recommended the transfer and, therefore, applicant is transferred. Hence, the O.A. is liable to be dismissed.

4. Applicant has filed rejoinder and submitted that one officer namely Dnyaneshwar Takras is deputed in place of the applicant in Pusad therefore, impugned order is liable to be quashed and set aside.

5. During the course of submission, ld. counsel for the applicant has submitted that in view of the guidelines issued by the Election Commission of India dated 31.07.2024, the Sector Officer/ Zonal Magistrate involved in the Election Duty are not covered under the Clause - III of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005. As per his submission, applicant is appointed as Sector Officer, therefore, transferring the applicant is not legal and proper, therefore, prayed to quash the impugned transfer order.

6. Ld. P.O. has pointed out recommendation of Civil Services Board. It is filed along with the reply. As per the recommendation of Civil Services Board he is working in Buldhana from the year 2016. He was due for transfer. The applicant is transferred on the post of Block Development Officer, Pusad. The ld. P.O. has submitted that applicant was transferred as per the recommendation of Civil Services Board. Hence, O.A. is liable to be dismissed.

7. There is no dispute that applicant is working at Buldhana since 2016. Applicant was due for transfer. The Civil Services Board

has taken into consideration engagement in Election Duty.

Recommendation of Civil Services Board is reproduced below:-

अ. क.	अधिकार्याचे नाव / सध्याचे पद / रुजू दिनांक	पदस्थापना/बदलीचे कारण	विभागाचे अभिप्राय	नागरी सेवा मंडळाची शिफारस
२	श्री आशिष पी. पवार, उप मुख्य कार्यकारी अधिकारी (साप्र), जि. बुलडाणा जिल्हयात कार्यरत दि.०८.०८.२०१६ पदोन्नती आदेश दि.२४.०५.२०२२ स्व-जिल्हा बुलडाणा से.नि.दि.३१.१२.२० ३७	श्री पवार हे बुलडाणा जिल्हयामध्ये दि.०८.०८.२०१६ पासून गट विकास अधिकारी, गट-अ पदावर कार्यरत असून उप मुख्य कार्यकारी अधिकारी (साप्र), जि. बुलडाणा या पदावर दि., २४.०५.२०२२ पासून पदोन्नतीने कार्यरत आहेत. गट विकास अधिकारी, पंचायत समिती, पुसद, जि. यवतमाळ हे पद सहायक निवडणुक निर्णय अधिकारी (ARO) म्हणून अधिसूचित आहे. मा. मुख्य निवडणूक अधिकारी, महाराष्ट्र यांनी दि.२२.०९.२०२४ रोजीच्या पत्रान्वये गट विकास अधिकारी, पंचायत समिती, पुसद, जि. यवतमाळ हे अधिसूचित पद भरणेबाबत सूचना दिलेल्या आहेत. त्यामुळे गट विकास अधिकारी, पंचायत समिती, पुसद, जि. यवतमाळ हे पद भरणे आवश्यक आहे.	गट विकास अधिकारी, पंचायत समिती, पुसद, जि. यवतमाळ हे पद सहायक निवडणुक निर्णय अधिकारी (ARO) म्हणून अधिसूचित आहे. त्यानुषंगाने मा. मुख्य निवडणुक आयोगाच्या सूचना विचारात घेता श्री पवार यांना गट विकास अधिकारी, पंचायत समिती, पुसद, जि.यवतमाळ या पदावर पदस्थापना देणे उचित होईल.	श्री पवार यांना गट विकास अधिकारी, पंचायत समिती, पुसद जि. यवतमाळ या पदावर पदस्थापना देण्याची शिफारस आहे.

8. The Government has decided to transfer the applicant. It is for the government to conduct the Election fairly and smoothly as per Clause - III of the guideline issued by the Election Commission of India. The employee who has completed three years of period or having Home District shall be transferred. Hence, the applicant was due for transfer his name was recommended for transfer by the Civil Services Board. It is also mentioned in the recommendation that as per direction of the Government he be transferred and posted as a Block Development Officer. Hence, the impugned transfer order is perfectly legal and correct. Hence, O.A. is dismissed with no order as to costs.

(Shri Justice M.G.Giratkar)
Vice Chairman

Dated :- 23/10/2024.
aps

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 23/10/2024.
and pronounced on