

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.967 OF 2017

[Subject : Transfer]

DISTRICT : KOLHAPUR

Dr. Mukund Mahadeo Sadigale)
Working ad Medical Officer,)
Age 55 years,)
Residing at Madhav Chambers, 1940-B,)
Ring Road, Kagal, District Kolhapur 416 216) **..Applicant**

Versus

1. State of Maharashtra,)
Through Chief Secretary,)
Mantralaya, Mumbai 400 032)

2. The Additional Chief Secretary,)
Public Health Department,)
Mantralaya, Mumbai 400 032.) **..Respondents**

Smt. Punam Mahajan, the learned Advocate for the Applicant.

Smt. Archana B.K., the learned Presenting Officer for the Respondents.

CORAM : Justice Shri A.H. Joshi, Chairman

RESERVED ON : 24.01.2018

PRONOUNCED ON : 29.01.2018.

JUDGMENT

1. Heard Smt. Punam Mahajan, the learned Advocate for the Applicant and Smt. Archana B.K., the learned Presenting Officer for the Respondents.

2. Heard both sides.
3. Applicant is aggrieved by transfer order dated 10.10.2017.
4. By this order, it is shown that :-
 - (a) Transfers ordered therein are based on request.
 - (b) Applicant has been posted at Sub District Hospital at Gadhinglaj, District Kolhapur.
5. The grounds on which Applicant has challenged impugned order are :-
 - (a) Applicant did not request for transfer at Gadhinglaj.
 - (b) Impugned transfer, if treated as transfer other than on request is a mid-term transfer, for which reasons ought to have been recorded under Section 4(4) second proviso, of ROT Act, 2005, however, reasons are not recorded.
6. Facts of the case as disclosed in the O.A. reveals as follows :-
 - (a) By order dated 31.05.2015, Applicant was transferred from his last posting i.e. at Kagal.
 - (b) Applicant had requested retention/ extension at Kagal.
 - (c) Extension was granted in his favour by different orders which came to end on 31.03.2017.
 - (d) After the period, stay of one year came to an end applicant was relieved from the post at Kagal on 16.05.2017.
 - (e) Though applicant was relieved, he was not given any posting and he was required to wait for posting.
 - (f) Impugned order dated 10.10.2017 was passed.
7. In fact by impugned order Applicant was posted at Sub District Hospital, Gadhinglaj.
8. It is thus evident that in so far as applicant is concerned he has been posted at Gadhinglaj to give him a posting instead of keeping him waiting. Though order dated 10.10.2017 is titled as order of request transfer, qua the applicant, it is an order of giving him a posting by ending applicant's status in hanging animation.

9. In the result, Applicant is not able to show that applicant's posting at Gadhinglaj amounts to be "a transfer" from post or position held by the Applicant at a particular place "by curtailing tenure" or otherwise being mid-term.
10. Applicant cannot have grievance as no illegality is committed while giving posting to the applicant.
11. It has to be inferred that inclusion of name of Applicant in the list of transferees on account of request, appears to be administrative error which is minor error of insignificant nature.
12. Impugned order is liable to be described as an order of posting in so far as it relates to the Applicant.
13. Respondents ought to effect correction in impugned order by issue of a corrigendum or fresh order to avoid / overcome the confusion and anomaly, and if necessary by issuing correctly worded separate order.
14. Hence, Original Application is without any merit and is disposed with direction contained in foregoing paragraph No.14.
15. Parties are directed to bear own costs.

Sd/-
(A.H. Joshi, J.)
Chairman
29.01.2018

prk