

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI  
ORIGINAL APPLICATION NO.909 OF 2017**

**DISTRICT : NASHIK**

Shri Srikant Panjabrao Khande, )  
Age 42 years, Laboratory Technician, )  
Nashik Road Central Prison, Nashik-1, )  
R/o Devi Apartment, Flat No.10, Saitray Company, )  
Behind Adhav Petrol Pump, Panchak, Nashik )..Applicant

Versus

1. The Additional Director General of Police and )  
Inspector General of Prisons & Improvement )  
Services, Old Central Building, 2<sup>nd</sup> floor, Pune-1 )
2. Smt. Vaishali Dnyaneswarrao Mohod, )  
Laboratory Technician, Amravati Central Prison, )  
Amaravati )
3. Smt. Ashwini Shyam Khandare, )  
Laboratory Technician, Nagpur Central Prison, )  
Nagpur )
4. The State of Maharashtra, )  
Through Principal Secretary, )  
Department (Prison), Mantralaya, Mumbai-32 )..Respondents

Shri A.V. Bandiwadekar – Advocate for the Applicant

Shri N.K. Rajpurohit – Presenting Officer for Respondents No.1 & 4

Shri A.P. Sadavarte – Advocate for Respondent No.2

Shri Santosh Patil – Advocate for Respondent No.3

CORAM : Shri Justice A.H. Joshi, Chairman

CLOSED ON : 23<sup>rd</sup> January, 2018

PRONOUNCED ON : 29<sup>th</sup> January, 2018

### **J U D G M E N T**

1. Shri A.V. Bandiwadekar, learned Advocate for the Applicant, Shri N.K. Rajpurohit, learned Presenting Officer for Respondents No.1 & 4, Shri A.P. Sadavarte, learned Advocate for Respondent No.2 and Shri Santosh Patil, learned Advocate for Respondent No.3.

2. The applicant has challenged three orders viz:

- (i) Order dated 12.6.2017 (Exhibit A) passed by respondent no.1 rejecting the request transfer of applicant from Nasik to Amaravati.
- (ii) Order dated 19.5.2017 (Exhibit F) passed by respondent no.1 rejecting the request transfer of applicant to Amaravati.
- (iii) Order dated 15.9.2017 (Exhibit G) passed by respondent no.1 transferring respondent no.2 to Amravati from Nagpur and respondent no.3 vice versa on their request.

3. The applicant's claim which is based on admitted facts is summarized as follows:

- (i) The applicant, respondent no.2 and respondent no.3, who are working as Laboratory Technician, were appointed from the

same batch and have served at their first place of posting over a period of 6 years.

- (ii) By order dated 2/4 May, 2013 applicant was transferred from Aurangabad to Nashik Jail while place of posting of respondents no.2 and 3 were interchanged. All these transfers were on administrative grounds.
- (iii) Applicant has made various applications requesting transfer at Amravati.
- (iv) By communication dated 12.6.2016 applicant's request for posting at Amravati is rejected.
- (v) Respondents No.2 and 3 made a joint request for transfer and by impugned order dated 15.9.2017, which is a mid-term and mid-tenure transfer, respondents no.2 and 3 have been transferred based on their request.

4. Applicant's grievance against transfer of respondents no.2 and 3 is narrated in long list of grounds. Crucial grounds are sorted and summarized as follows:

- (a) Request transfer of respondents no.2 and 3 ought not to have been entertained.
- (b) Transfer of respondents no.2 and 3 is malafide, arbitrary, illegal and based on prejudice against the applicant.
- (c) Because the request transfer of respondents no.2 and 3 is done now the prospects of applicant's transfer to Amravati are ruled out.
- (d) Applicant is discriminated since Government servant could not be denied opportunity to serve nearby his native place or a place where his family members reside.

5. The applicant wants to argue based on point 4(a) foregoing, that request transfer ought not to have been entertained however he continues to maintain that his request should necessarily have been considered. Therefore, this aspect of grievance need not be dealt with.

6. In so far as ground of malice etc. described in foregoing para 4(b) is concerned, the allegation is bold, but bald as well as vague. Pleadings of malafides have always to be based on facts. In absence of pleadings of facts as to malafide, the allegations of malafides do not deserve any cognizance.

7. In so far as ground of discrimination described in foregoing para 4(c) and (d) are concerned, applicant has to accept that respondents no.2 and 3 have not been conferred permanent lease on their place of postings i.e. at Amravati and Nagpur.

8. Even the applicant cannot claim an absolute right in the tenor and language employed and pleaded by him that every Government servant must get as absolute right, the opportunity to serve nearby his native place or a place where his family members reside. No doubt, an endeavour may be made for keeping the spouses together if they are in Government service, and may also, wherever possible, even if the spouse not be in Government service on equitable and just grounds.

9. The claim that Government servant must get a posting near his family members cannot be enforced as a legal right.

10. The applicant's claim in the present OA is based on applicant's wishes and aspirations. The same is not based on legal right and cannot be enforced.

11. The impugned orders though challenged, are not proved to have been passed due to utter favour and/or in violation of mandatory

provisions of law or express precedent having binding force of a mandatory order contained therein.

12. Hence, OA has no merit and is dismissed. Parties are directed to bear own costs.

**Sd/-**  
**(A.H. Joshi, J.)**  
**Chairman**  
**29.1.2018**

Dictation taken by: S.G. Jawalkar.

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