

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 478 OF 2016

DISTRICT: HINGOLI

Sachin s/o Shankarlal Jaiswal,
Age: 34 years, Occu: Service,
R/o T 2/3, Government Revenue Quarters,
Hingoli, Tq. & Dist. Hingoli.

.. APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through it's Principle Secretary,
Department of Revenue & Forest,
Mantralaya, Mumbai.
- 2) The District Collector,
Hingoli, Tq. & Dist. Hingoli.
- 3) Shivaji Baburao Pote,
Age. Major, Occu. Service,
R/o C/o Tahsil Office, Kalamnuri,
Dist. Hingoli.

.. RESPONDENTS

APPEARANCE : Shri S.S. Jadhavar, learned counsel
for the Applicant.

: Shri V.R. Bhumkar, learned Presenting
Officer for the Respondents.

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J)

J U D G M E N T**(DELIVERED ON 10th OCTOBER, 2016.)**

The applicant was selected for the post of Naib Tahsildar through MPSC. He was accordingly appointed on the post of Naib Tahsildar in Aurangabad Division vide order dated 10.04.2013 and reported to the office of Divisional Commissioner, Aurangabad on 30.04.2013, in view of the said order. The applicant was thereafter, posted at Hingoli for the purpose of training/probation vide order dated 30.04.2013 and has completed his training/probation on 29.04.2015. After completion of the training/probation period, the applicant was posted as Naib Tahsildar in Tahsil Office, Hingoli vide order dated 2.6.2015. Therefore, the first regular posting of the applicant at Hingoli is as per the order dated 2.6.2015. He has not completed his tenure of three years at Hingoli. However, surprisingly vide impugned order of transfer dated 31.05.2016, the applicant has been transferred from the post of Naib Tahsildar, Hingoli to the post of Naib Tahsildar, Vasmat. The impugned order of transfer is therefore, against the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official

Duties Act, 2005 (for short Transfer Act 2005) and hence, this Original Application.

2. The applicant has claimed that the impugned order of his transfer from Hingoli to Vasmat be quashed and set aside and the respondents be directed to allow the applicant to continue to work as Naib Tahsildar at Hingoli.

3. The respondent no. 2 resisted the claim of the applicant by filing affidavit in reply and submitted that the applicant has completed three years of his tenure as considering his training/probation period and therefore, he was transferred at Vasmat.

4. Heard Shri S.S. Jadhavar, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents. I have also perused the application, affidavit, affidavit in reply and various documents placed on record by the respective parties.

5. The only material point to be considered in this case is whether the impugned order of transfer of the applicant

from the post of Naib Tahsildar, Hingoli to the post of Naib Tahsildar, Vasmat dated 31.05.2016 is legal and proper?

6. The learned Advocate for the applicant submits that the applicant has been posted on regular post at Hingoli as per order dated 2.6.2015 and the impugned order of transfer has been passed on 31.05.2016 and therefore, he has just completed one year at Hingoli and ought not to have been transferred since, he has not completed tenure.

7. The respondents however, invited my attention to various documents on record, from which it seems that the initial posting of the applicant was at Hingoli itself, but initially he was under training/probation.

8. The appointment order of the applicant is dated 10.04.2013 and this is issued by the Government. In view of the said order, the applicant reported to the office of Divisional Commissioner, Aurangabad and vide order dated 30.04.2013 he was posted at Hingoli for completion of his training/probation. The said order is dated 30.04.2013 is at paper book page nos. 16 & 17(both inclusive) (Exhibit-B). It

seems that during the training/probation period the probationary Naib Tahsildar has to work at various posts in the district and accordingly, the applicant was posted at various places during the training/probation period as seems from the order dated 6.5.2013 (Exhibit-C) and after completion of his training/probation on 19.04.2015, the applicant came to be posted at Hingoli on 2.6.2015 as regular Naib Tahsildar. This seems to be the first order of the applicant on regular post of Naib Tahsildar.

9. The respondents have invited my attention to one letter issued by the Collector, Hingoli, whereby the information of the officers, who were due for transfer was called. In the said letter it was specifically instructed that even probation period undergone by the officers of Naib Tahsildars shall be considered while counting period of tenure. The said letter is at paper book page no. 32 (Exhibit R-1). In view of the said letter, the Tahsildar, Hingoli, submitted information to the Collector, Hingoli, vide letter dated 2.5.2016 at paper book page no. 34 (Exhibit R-2). In the said information given in the pro-forma-A attached to the said letter, it is stated that the applicant has joined as Naib Tahsildar on probation on

30.04.2013 and was posted at Hingoli and has completed his tenure of three years in Hingoli District and therefore, was due for transfer. There is nothing wrong in the said information. There is no legal base for the say of the applicant that the tenure shall be counted only from the date of his regular posting to the post of Naib Tahsildar. The applicant has joined as Naib Tahsildar at Hingoli as per order dated 10.04.2013 and was actually posted at Hingoli on 30.04.2013. Though out of his probation and till the date of issuance of the transfer order, the applicant was serving at Hingoli, whether on probation, or on regular post, and therefore, he has completed his tenure of three years.

10. It is very unfortunate that the newly appointed officers even of the cadre of the Naib Tahsildars are challenging the orders of their transfer on technical grounds. The officers are initially appointed in the District on probation and after completion of the probation, it is discretion of the concerned competent authority as to how their services shall be utilized in the District. Accordingly, the Collector, Hingoli seems to have thought it proper to post the applicant at Vasmata, considering his administrative convenience. I do not find any

reason to interfere in the discretion exercised by the respondent authorities, whereby the applicant was transferred to Vasmat in the same District. I therefore, do not find any illegality in the impugned order of transfer and hence, I pass following order:-

ORDER

- (i) The Original Application stands dismissed with costs of Rs. 1000/-.
- (ii) The payment of costs of Rs. 1000/- be remitted to the M.A.T. Bar Association.
- (iii) It is made clear that the certified copy shall not be issued to the applicant, if costs of Rs. 1000/- is not deposited with the M.A.T. Bar Association.

MEMBER (J)
(J.D. KULKARNI)

Kpb/S.B. O.A. No. 478 of 2016 JDK 2016