

ORIGINAL APPLICATION NO. 256 OF 2020
(Shri Baliraj D. Mulik V/s. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020.

ORAL ORDER :

Heard Shri K.G. Salunke, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent Nos. 1 & 2.

2. Learned Advocate Shri Yogesh Dhoble, has filed **VAKALATNAMA** on behalf of respondent No. 3. Same is taken on record.

3. Learned Presenting Officer has submitted that the matter regarding transfer of the applicant is before the concerned Minister for reconsideration and therefore, he sought one week's time to make further statement in that regard.

4. Learned Advocate for the applicant has submitted that he has no objection to grant time, but he has prayed to direct the parties to maintain status quo.

5. In view of the submissions advanced by both the parties, the present O.A. is fixed on 24.08.2020. The parties are directed to maintain status quo till then.

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 264 OF 2020
(Shri Sunilkumar R. Rathi V/s. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020.

ORAL ORDER :

Heard Shri A.S. Deshmukh, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant is serving on the present post since 08.06.2017. He has completed his normal tenure of posting in the month of June 2020. He has submitted that his name was not enrolled in the list of Government servant who is due for transfer. In view of the G.R. dated 07.07.2020, his options have not been called, but he has been transferred abruptly from Ahmednagar to Sakoli, Dist. Bhandara, which is Tribal /Naxelite affected area. He has submitted that in view of the G.R. dated 06.08.2002, the Government servant who has crossed the age of 50 years of his age cannot be transferred as far as possible. The applicant is 56 years old. But the respondents have passed the order in contraventions of the said G.R. and therefore, he has prayed to stay the operation and execution of the impugned order of transfer.

3. Learned Presenting Officer has submitted that the applicant has completed his normal tenure of posting and therefore, he has been transferred by the impugned order in view of the provisions of Section 4(4) and 4(5) of the Transfer Act, 2005. There is no illegality in the impugned order and therefore, she has prayed to reject the interim relief as prayed for by the applicant.

4. On perusal of the record, it reveals that the applicant has completed his normal tenure of posting in the month of June, 2020. His name was not included in the list of the Government servants who are due for transfer prepared by the department. The applicant is 56 years old. He has crossed 56 years of his age and therefore, in view of the provisions of G.R. dated 06.08.2002, he cannot be transferred at Naxelite affected area. The options had not been called from the applicant for places where he has to be transferred. Therefore, I find just ground and genuine reason to grant interim relief. Hence, the operation and execution of impugned order of transfer is stayed till filing of the affidavit in reply by the respondents.

5. Issue notices to the respondents, returnable on 14.09.2020.
6. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.
7. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
8. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
9. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

//4//

O.A. No. 264/2020

10. If notice is not collected within 7 days or proof of service is not produced before 3 days of the next date, case shall automatically stand dismissed without further reference to the Tribunal.

11. S.O. to 14.09.2020.

12. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN

KPB ORAL ORDERS 17.08.2020

ORIGINAL APPLICATION NO. 259 OF 2020
(Shri Panchmlal L. Salve V/s. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020.

ORAL ORDER :

Heard Shri V.B. Wagh, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. The applicant has challenged the impugned order of transfer dated 10.08.2020 by which he has been transferred from Aurangabad to Belapur. It is contention of the applicant that he is working as Regional Deputy Director, Ground Water Survey and Development Agency, Aurangabad Division, Aurangabad since 08.12.2015. He is due of transfer. It is his contention that he is holding additional charge of the post of Joint Director, Ground Water Survey and Development Agency, Pune. He has submitted that he had given option for his transfer at Pune at the time of General Transfers of the year 2020, but the respondents have not considered his option and transferred him to Belapur. It is his contention that he is not yet relieved and he is holding additional charge of the post of Joint Director, Ground Water Survey and Development Agency, Pune. He has submitted that the impugned order is in violation of

//2//

O.A. No. 259/2020

the provisions of Transfer Act, 2005. He has submitted that the applicant is not yet relieved and he has not handed over the charge of the present post in view of the provisions of Rule 31 of the Maharashtra Civil Service (General Conditions of Service) Rules, 1981. He has submitted that mere mention of relieving the applicant from 10.08.2020 in the impugned order is not sufficient. Therefore, he has prayed to grant interim relief.

3. Learned Presenting Officer has submitted that the applicant is due for transfer and therefore, he has been transferred by the impugned order dated 10.08.2020. Accordingly, specific mention has been made in the said order. She has submitted that this fact has been reiterated in the communication dated 13.08.2020 received to her. She has submitted that since the applicant has been relieved by the impugned order. In the peculiar circumstances of COVID-19 the applicant has to handover the charge in view of the provisions of Maharashtra Civil Service (General Conditions of Services) Rules, 1981. In spite of that, the applicant is holding charge of his post illegally. He has submitted

that there is no just ground to grant interim relief as claimed by the applicant.

4. On perusal of the record, the applicant is working at Aurangabad since the year 2015. He is due for transfer at the time of General Transfers of the year 2020 and therefore, he has been transferred by the impugned order. In the impugned order it is brought to notice that applicant has been relieved on very day, and no separate order is required to be issued. This fact has been clarified by the respondents in the communication dated 13.08.2020 which has been addressed to the Presenting Officer, M.A.T, Aurangabad. In the peculiar circumstances of COVID-19, the applicant has been relieved. Since the applicant has been relieved and the impugned order has been implemented, no question of granting stay to the impugned order arises. Hence, request to grant interim relief as prayed for by the applicant is hereby rejected.

5. Issue notices to the respondents, returnable on 14.09.2020.

//4//

O.A. No. 259/2020

6. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

7. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

8. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

9. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

10. If notice is not collected within 7 days or proof of service is not produced before 3 days of the next date,

//5//

O.A. No. 259/2020

case shall automatically stand dismissed without further reference to the Tribunal.

11. S.O. to 14.09.2020.

12. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN

KPB ORAL ORDERS 17.08.2020

ORIGINAL APPLICATION NO. 268 OF 2020
(Shri Gopal M. Mehetre V/s. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020.

ORAL ORDER :

Heard Shri D.K. Thote, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The applicant has challenged the impugned order dated 06.08.2020, by which he has been transferred from Latur to Aurangabad.

3. Learned Advocate for the applicant has submitted that the applicant is physically handicapped person. He is suffering from heart decease. He is also suffering from urinary tract infection. Therefore, he has requested the respondents to retain him at Latur. But the respondents have not considered his request and transferred him to Aurangabad by the impugned order. He has submitted that the applicant is not yet relieved and therefore, he has prayed to grant interim stay to the impugned order.

4. Learned Chief Presenting Officer has submitted that the applicant is serving at Latur since the year 2011. He has completed his normal tenure of posting and therefore, he has been transferred by the

//2//

O.A. No. 268/2020

impugned order dated 06.08.2020. Therefore, he has prayed to reject the interim relief as prayed for by the applicant.

5. On perusal of the record, it reveals that the applicant has completed his normal tenure of posting at Latur and therefore, he has been transferred by the impugned order. The applicant has been relieved from the said post. In these circumstances, in my view, there is no just ground to grant stay to the impugned order as claimed by the applicant. Hence, the request of the applicant to grant interim relief is hereby rejected.

6. Issue notices to the respondents, returnable on 14.09.2020.

7. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

8. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that

//3//

O.A. No. 268/2020

the case would be taken up for final disposal at the stage of admission hearing.

9. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

10. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

11. If notice is not collected within 7 days or proof of service is not produced before 3 days of the next date, case shall automatically stand dismissed without further reference to the Tribunal.

12. S.O. to 14.09.2020.

13. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 269 OF 2020
(Shri Narayan P. Kawthalkar V/s. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020.

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The applicant has challenged the impugned order dated 10.08.2020, by which he has been transferred from Bhokar to Gadchiroli on request. It is contention of the applicant that the applicant was never made any request for transfer at Gadchiroli, but the respondents have not considered the said aspect and he has been transferred by the impugned order, though he was not due for transfer. No person has been posted at his place. He is due for retirement on superannuation on 31.03.2021. He has submitted that the applicant has not handed over the charge of his post till today and therefore, he has prayed to grant interim stay to the impugned order of transfer.

3. Learned C.P.O. has submitted that he has received communications from the concerned officer. Same are taken on record. He has submitted that the applicant has been relieved on 14.08.2020 and his charge has been handed over to another officer. He

//2//

O.A. No. 269/2020

has submitted that since the applicant has been relieved, no question to grant stay to the impugned order arises. Therefore, he has prayed to reject the interim relief as prayed for by the applicant.

4. On perusal of the record, it reveals that the applicant has been transferred by the impugned order dated 10.08.2020. He has been relieved on 12.08.2020 and thereafter, charge of post of the applicant has been taken to one Shri D.T. Hawale on 14.8.2020. Since the impugned order has been implemented, no question of granting stay to the impugned order arises. Hence, request of the applicant to grant interim stay is hereby rejected.

5. Issue notices to the respondents, returnable on 10.09.2020.

6. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

7. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that

//3//

O.A. No. 269/2020

the case would be taken up for final disposal at the stage of admission hearing.

8. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

9. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

10. If notice is not collected within 7 days or proof of service is not produced before 3 days of the next date, case shall automatically stand dismissed without further reference to the Tribunal.

11. S.O. to 10.09.2020.

15. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 270 OF 2020
(Shri Bhima P. Chakre V/s. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020.

ORAL ORDER :

Heard Shri S.D. Munde, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 31.08.2020.

VICE CHAIRMAN

KPB ORAL ORDERS 17.08.2020

**ORIGINAL APPLICATION ST. NO. 646 OF 2020
(Balasaheb T. Ambade Vs. State of Maharashtra & Ors.)**

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020

ORAL ORDER :

Heard Shri P.P. Dawalkar, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Issue notices to the respondents, returnable on 14.09.2020.

3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

4. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal

(Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

7. If notice is not collected within 7 days or proof of service is not produced before 3 days of the next date, case shall automatically stand dismissed without further reference to the Tribunal.

8. S.O. to 14.09.2020.

9. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 885 OF 2019
(Dr. Santosh N. Badhe Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020

ORAL ORDER :

Heard Shri Avinash S. Deshmukh, learned Advocate for the applicant and Mrs. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. On instructions, learned Advocate for the applicant submits that the applicant does not want to proceed with the present Original Application and wants to withdraw the same. Therefore, he seeks leave of this Tribunal to withdraw the same.

3. Leave granted. Withdrawal is allowed. Accordingly, the present Original Application stands disposed of as withdrawn without any order as to costs.

VICE CHAIRMAN

ORAL ORDERS 17.08.2020-hdd

ORIGINAL APPLICATION NO. 884 OF 2019
(Dr. Nitin S. Sonawane Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020

ORAL ORDER :

Heard Shri Avinash S. Deshmukh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. On instructions, learned Advocate for the applicant submits that the applicant does not want to proceed with the present Original Application and wants to withdraw the same. Therefore, he seeks leave of this Tribunal to withdraw the same.

3. Leave granted. Withdrawal is allowed. Accordingly, the present Original Application stands disposed of as withdrawn without any order as to costs.

VICE CHAIRMAN

ORAL ORDERS 17.08.2020-hdd

**ORIGINAL APPLICATION NO. 250 OF 2020
(Prabhu S. Pungale Vs. State of Maharashtra & Ors.)**

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020

ORAL ORDER :

Heard Shri S. A. Deshmukh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. At the request of learned Advocate for the applicant, S.O. to 27.08.2020.

VICE CHAIRMAN

ORAL ORDERS 17.08.2020-hdd

ORIGINAL APPLICATION NO. 985 OF 2019
(Suresh S. Chate Vs. State of Maharashtra & Ors.)

WITH

ORIGINAL APPLICATION NO. 996 OF 2019
(Sainath R. Thombre Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020

ORAL ORDER :

Heard Shri S.D. Joshi, learned Advocate for the applicants in both the cases, Shri I.S. Thorat, learned Presenting Officer for the respondent Nos. 1 to 4 in both the cases. Shri V.B. Wagh, learned Advocate for the respondent No. 5 in O.A. NO. 996/2019.

2. Learned Presenting Officer has filed affidavit in reply on behalf of respondent Nos. 2 to 4 in both the cases and the same is taken on record and the copy thereof has been served on the other side.

3. Learned Presenting Officer has also filed affidavit on behalf of respondent No. 4 in view of order passed by this Tribunal on 11.03.2020 and the same is taken on record and copy thereof has been served on the other side.

:: 2- :: O.A. Nos. 985 & 996 of 2019

4. On perusal of the affidavit of Raj Tilak Roushan I.P.S., at present working as Superintendent of Police, Osmanabad and affidavit of Motichand Dhiru Rathod, Sub Divisional Police Officer, Division Osmanabad, it reveals that both are making contradictory submissions regarding meeting held on 1.11.2019, as well as, weekly dairy maintained by Shri D.D. Tiparse, Dy. S.P. regarding work done by him on 1.11.2019. Therefore, original record regarding meeting held on 1.11.2019, as well as, weekly dairy of Shri D.D. Tiparse, Dy. S.P. dated 1.11.2019 is needed. Hence, the respondents are directed to produce the said original record on or before the next date. Shri Raj Tilak Roushan, I.P.S., at present working as Superintendent of Police and Shri D.D. Tiparse, Dy. S.P. are directed to remain present personally before this Tribunal on the next date, for making submissions in that regard. It is made clear that the present matters would be heard finally on the next date.

5. S.O. to 03.09.2020.

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 286 OF 2020
(Sandeep S. Walkunde Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020

ORAL ORDER :

Heard Shri K.G. Salunke, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant has been appointed on the post of Taluka Agriculture Officer by an order dated 18.02.2020. He joined the said post on 14.03.2020. He has hardly completed 5 months' tenure in the said post. He is not due for transfer, but the respondents passed the impugned order dated 10.08.2020 and transferred him from the post of Taluka Agriculture Officer, Shengaon Tq. Shengaon District Hingoli to the post of Technical Officer in the office of Divisional Joint Director Aurangabad and posted the respondent No. 3 at his place. He has submitted that the impugned order is passed in contravention of the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay In Discharge of Official Duties Act, 2005 (In short "the Transfer Act of 2005) and it has

been issued only to accommodate the respondent No. 3. He has, therefore, prayed to grant interim relief in favour of the applicant.

3. Learned Presenting Officer has submitted that the applicant had submitted an application for giving him posting at Aurangabad on 26.06.2020 and accordingly, the respondents made his transfer at Aurangabad and, therefore, he prayed to reject the prayer of the applicant for grant of interim relief.

4. On perusal of the record, it reveals that on 18.02.2020 the applicant was appointed on the post of Taluka Agriculture Officer, Shengaon, District Hingoli. The applicant moved an application dated 26.02.2020 for change of his posting, but his request might not have been considered by the respondents at the relevant time. Therefore, on 14.03.2020 he has joined at Shengaon. The applicant is working at Shengaon since then. He has hardly completed 5 months' tenure there. Therefore, he is not due for transfer. The impugned transfer order has been issued under Sections 4 (4) & 4 (5) of the Transfer Act of 2005. *Prima facie* it reveals that the prior approval of the higher / next transferring authority has not been

obtained while issuing the impugned transfer order of the applicant. *Prima facie*, the impugned transfer order is in violation of the Transfer Act of 2005. Therefore, it requires to stay the operation and execution of the impugned transfer order till filing of the affidavit in reply by the respondents.

5. In view of the above, the operation and execution of the impugned transfer order is stayed till filing of the affidavit in reply by the respondents.

6. Issue notices to the respondents, returnable on 21.09.2020.

7. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

8. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

9. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal

(Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

10. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

11. If notice is not collected within 7 days or proof of service is not produced before 3 days of the next date, case shall automatically stand dismissed without further reference to the Tribunal.

12. S.O. to 21.09.2020.

13. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN

ORIGINAL APPLICATION NO. 284 OF 2020
(Sidharam M. Koli Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020

ORAL ORDER :

Heard Shri Pratap G. Rodge, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicant seeks leave of the Tribunal to amend the O.A. and therefore he sought time. Leave as prayed for is granted. Applicant shall amend the O.A. with two weeks.

3. In view thereof O.A. is removed from the board.

VICE CHAIRMAN

ARJ ORAL ORDERS 17.08.2020

**O.A. NOS. 238, 239, 240, 241, 242, 243, 244, 245,
246, 247, 248 AND 249 ALL OF 2020**
(Balu S. Sumbe & Ors. Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

[This matter is placed before the Single
Bench due to non-availability of Division
Bench.]

DATE : 17.08.2020

ORAL ORDER :

Heard Shri S.R. Sapkal, learned Advocate for the applicants in all these cases and S/shri M.S. Mahajan, I.S. Thorat, V.R. Bhumkar, M.P. Gude and Smt. Priya R. Bharaswadkar, learned Chief Presenting Officer and Presenting Officers for the respective respondents in respondents.

2. Learned Advocate for the applicant submits that the applicants intend to add the aggrieved persons as party respondents in respective O.As. Therefore he seeks leave of the Tribunal to amend the O.As. Leave as prayed for is granted. The O.As. be amended within 2 weeks

3. In the circumstances, S.O. to 7.9.2019.

VICE CHAIRMAN

M.A. ST. 625/2020 IN O.A. 1100/2019
(Rajesh U. Landge & Ors. Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

[This matter is placed before the Single Bench due to non-availability of Division Bench.]

DATE : 17.08.2020

ORAL ORDER :

Heard Shri Avinash S. Deshmukh, learned Advocate for the applicants, Shri M.S. Mahajan, learned Chief Presenting Officer for the respondent nos. 1 to 8 and Shri K.G. Salunke, learned Advocate holding for Shri S.S. Tope, learned Advocate for respondent nos. 11 & 14.

2. Today Shri S.S. Randive, learned Advocate has filed V.P. for respondent no. 22 and submits that he is under instructions from respondent nos. 18 to 41 and 59 to appear on their behalf in this matter. He seeks time to file affidavit in reply in the M.A. & O.A.

3. Learned Advocate for the applicants, on instructions from applicant no. 1 in M.A. and applicant no. 2 in O.A. Smt. Pallavi V. Ligade that this applicant does not want to proceed with the M.A. and O.A. He therefore sought leave of the Tribunal to delete the name of applicant Smt. Pallavi V. Ligade from the array of M.A. and O.A. Leave as prayed for by

::-2-::

the learned Advocate for the applicants is granted. The learned Advocate for the applicants is directed to delete the name of applicant Smt. Pallavi V. Ligade from the M.A. & O.A. forthwith.

4. Learned C.P.O. has filed affidavit in reply of res. nos. 1 & 2 in the O.A. It is taken on record and copy thereof has been supplied to other side. He seeks time to file affidavit in reply of other respondents in the O.A. and M.A. Time granted.

5. In the circumstances, S.O. to 27.8.2020. The interim relief granted earlier to continue.

VICE CHAIRMAN

ARJ ORAL ORDERS 17.08.2020

ORIGINAL APPLICATION NO. 285 OF 2020
(Dr. Veena R. Garje Vs. State of Maharashtra & Ors.)

CORAM : B. P. PATIL, VICE CHAIRMAN

DATE : 17.08.2020

ORAL ORDER :

Heard Shri Avinash S. Deshmukh, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. The applicant has challenged the order dtd. 7.8.2020 passed by the respondent no. 1 by which she has been transferred from the post of Live Stock Development Officer, Latur to the post of Live Stock Development Officer (Extension), Panchayat Samiti, Nilanga, Dist. Latur, by filing the present O.A.

3. Learned Advocate for the applicant has submitted that the applicant has completed her normal tenure at Latur. He has submitted that the applicant has been transferred in the year 2019 illegally and therefore she has filed O.A. no. 592/2019. By the said order the applicant has been transferred from Latur to Chapoli, Tq. Chakur, Dist. Latur. He has submitted that this Tribunal has granted interim relief in favour of the applicant in the O.A. no. 592/2019. The said matter is still pending and it has

not been decided finally. The interim relief granted in favour of the applicant is in force. But the respondents without considering the pendency of earlier O.A. issued the impugned transfer order and thereby transferred the applicant from Latur to Nilanga. He has submitted that the impugned action on the part of the respondents during the pendency of the earlier O.A. is illegal. He has submitted that the impugned transfer order is in contravention of the Transfer Act, 2005. Therefore he has prayed to grant interim stay to the execution and operation of the impugned order. He has submitted that the son of the applicant is studying in 12th standard at Latur and on that ground the impugned order requires to be stayed. He has further submitted that no choices were called for by the respondents at the time of general transfers of 2020. He has submitted that the applicant has been illegally relieved on 13.8.2020 and nobody has taken the charge of the post of the applicant till today.

4. Learned P.O. submits that the applicant is working at Latur since the year 2015 and therefore she has been transferred in the year 2019 from Latur to Chapoli, Tq. Chakur, Dist. Latur. She has submitted that this Tribunal in the O.A. no. 592/2019, which

was filed by the applicant, has granted interim stay to that transfer order. In the year 2020 she was due for transfer and therefore the competent authority considered the case of the applicant for transfer. She has submitted that the applicant has not made any representation or request application for retention at Latur as well as she has not submitted any choices for transfer i.e. places at which she has to be transferred. Therefore the competent transferring authority decided to transfer the applicant at Nilanga and accordingly the impugned transfer order has been passed. There was no illegality in making the transfer of the applicant in the year 2020. The applicant has been relieved on 13.8.2020 and one Dr. V.K. Karad, Live Stock Development Officer took the charge of the post of applicant today in the morning and she has received communication in that regard. Therefore, no question of granting the interim stay to the execution and operation of the impugned order arises.

5. On perusal of record it reveals that the applicant has served at Latur since the year 2015. In the year 2019, she was due for transfer and therefore she has been transferred from Latur to Chapoli, Tq. Chakur, Dist. Latur. But, the applicant filed O.A. no.

592/2019 before this Tribunal and challenged the said order. This Tribunal granted stay to the execution and operation of that order and therefore the applicant has been retained at Latur. In the year 2020 the applicant is due for transfer. Considering her tenure at Latur, the competent authority decided to transfer the applicant from Latur to Nilanga, Dist. Latur. The applicant has not given any choice for her posting and also not filed any application for her retention at Latur. Therefore, the respondents transferred her by the impugned order as per the provisions of the Transfer Act, 2005. There is no violation of the provisions of the Transfer Act, 2005. I find no illegality in the impugned order. The impugned order has already been executed as the applicant has been relieved on 13.8.2020 and one Dr. V.K. Karad took the charge of the post of the applicant.

6. In these circumstances, in my view, no question of granting interim stay to the operation and execution of the impugned order arises. Hence the request of the applicant for granting interim relief is rejected.

7. Issue notice to respondents, returnable on 14.9.2020.

8. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

9. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

10. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

11. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

12. If notice is not collected within 7 days or proof of service is not produced before 3 days of the next date,

:: - 6- ::

O.A. NO. 285/2020

case shall automatically stand dismissed without further reference to the Tribunal.

13. S.O. to 14.9.2020.

14. Steno copy and Hamdast is allowed to both parties.

VICE CHAIRMAN

ARJ ORAL ORDERS 17.08.2020