

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

O.A.965/2019

Shri V.J. Pagare ... Applicant
Vs.
The State of Mah. & Ors. ... Respondents

1. Heard Shri K.R. Jagdale, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. The Applicant has challenged the communication dated 20.10.2018 whereby his representations dated 20.06.2016 and 12.09.2017 were rejected. In impugned communication, it is further stated that the order passed by competent authority dated 24.08.2012 regarding extra-ordinary leave of the Applicant has been confirmed.

3. The perusal of record reveals that initially, the extra-ordinary leave of 1594 days was granted to the Applicant by order dated 23.09.2010, which is at Page No.24 of P.B. but later by order dated 24.08.2012 it was cancelled.

4. The matter in issue is whether the Applicant is entitled to extra-ordinary leave in terms of G.R. dated 07.10.2002.

5. In view of above, it is necessary to know the contents of order dated 24.08.2012 whereby earlier order dated 23.09.2010 was cancelled. It is also necessary to know the grounds for cancellation of order dated 23.09.2010.

6. Thus, ~~the~~^{the} important order itself is not forthcoming on record. Indeed, the Respondents ought to have filed it on record along with reply to justify the cancellation of order dated 23.09.2010, but failed to do so, which reflects casual approach of the Respondents.

7. In view of above, the Respondents are directed to produce the order dated 24.08.2012 in the Tribunal along with Affidavit.

8. Adjourned to 22.12.2020.

Sd/-

(A.P. Kurhekar)
Member-J
18.12.2020

(skw)

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

I N

Original Application No. of 20

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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O.A.130/2020

Shri S.V. Sonar ... Applicant
Vs.
The State of Mah. & Ors. ... Respondents

1. Heard Shri D.R. Patekar, learned Advocate holding for Shri L.S. Deshmukh, learned Advocate for the Applicant, Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents 1 & 2 and Shri S.R. Pawar, learned Advocate for Respondent No.3.

2. Shri Patekar, learned Advocate requested for adjournment.

3. Adjourned to 8th January, 2021.

Sd/-

(A.P. Kurhekar)
Member-J
18.12.2020

(skw)

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

IN

Original Application No. of 20

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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Date : 18.12.2020

O.A.No.1189 of 2019

D. J. AmbilwadeApplicant

Versus

The State of Maharashtra & Ors. ...Respondents.

1. Heard the Applicant in person and Smt. Archana B.K., learned Presenting Officer holding for Ms S.P. Manchekar, learned Chief Presenting Officer for the Respondents.
2. The Applicant in person has filed brief notes of arguments.
3. Learned P.O. submits that learned C.P.O. is busy in another court in Part-Heard matter and requested for grant of time. Whereas, the Applicant stated that he is coming from Nashik and matter be expedited.
4. In view of above, the matter is adjourned to 24.12.2020 . with specific directions that no further time will be granted.

Sd/-

(A.P. Kurhekar)
Member(J)

vsm

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

IN

Original Application No. of 20

FARAD CONTINUATION SHEET No.

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Date : 18.12.2020

**R.A. No.09 of 2020 in O.A.536 of 2018 with
R.A.13 of 2020 in O.A.539 of 2018 with O.A.540 of 2018 with
O.A.775 to 777 of 2018 with O.A.1084 with
R.A. No.21 of 2019 in O. A. No.238 of 2018**

**The State of Maharashtra & Ors.Applicants
(Ori. Respondents)**

Versus

**U. G. Salgaonkar & Ors. ...Respondents
(Ori. Applicants)**

1. Heard Ms S. P. Manchekar, learned Chief Presenting Officer for the Applicants (Ori. Respondents) and Shri U. V. Bhosale, learned Counsel for the Respondent (Ori. Applicant)
2. Learned C.P.O. for the original Respondents requested for adjournment on the ground that she is busy in the other Part-Heard matters.
3. On her request, the matter is adjourned to 11.01.2021.
4. S.O. to 11.01.2021.

Sd/-

(A.P. Kurhekar)
Member(J)

vsm

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

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FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date : 18.12.2020</p> <p>O.A.No.953 of 2018 with O.A.No.214 of 2019</p> <p>B. H. Wadkar & Ors.Applicants Versus</p> <p>The State of Maharashtra & Ors. ...Respondents.</p> <p>1. The Applicants and their Counsel are absent. Smt. Kranti Gaikwad holding for Shri A. J. Chougule, learned Presenting Officer for the Respondents is present.</p> <p>2. There is a leave note of Shri A. V. Bandiwadekar, learned Counsel for the Applicants.</p> <p>3. These matters were lastly listed before the Tribunal in the month of April 2020 and thereafter it remains unlisted due to Covid-19 pandemic situation.</p> <p>4. In view of above, the matters are adjourned to give one opportunity to the Applicants and their Counsel for hearing.</p> <p>5. S.O. to 04.01.2021.</p> <p style="text-align: right;">A Sd/- v (A.P. Kurhekar) Member(J)</p> <p>vsm</p>

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

I N

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Date : 18.12.2020

O.A.No.341 of 2018

J. S. Jadhav

....Applicant

Versus

The State of Maharashtra & Ors.

...Respondents.

1. The Applicant and his Counsel are absent. Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents is present.

2. There is leave note of Shri A.V. Bandiwadkar, learned Counsel for the Applicant.

3. This matter was lastly listed for hearing on 23.03.2020 and thereafter due to Covid-19 pandemic situation, it remains unlisted.

4. In view of above, the matter is adjourned for final hearing.

5. S.O. to 04.01.2021.

Sd/-

(A.P. Kurhekar)
Member(J)

vsm

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

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Original Application No. of 20

FARAD CONTINUATION SHEET No.

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Date : 18.12.2020

O.A.No.609 of 2018

K. M. More

...Applicant

Versus

The State of Maharashtra & Ors.

...Respondents.

1. The Applicant and his Counsel are absent. Smt. Kranti Gaikwad, learned Presenting Officer for the Respondent Nos.1 and 2 and Shri K.R. Jagdale, learned Counsel for the Respondent No.3 are present.

2. This matter was lastly listed before the Tribunal on 27.01.2020 and thereafter it remains unlisted due to Covid-19 pandemic situation.

4. In view of above, the matter is adjourned for final hearing.

5. S.O. to 21.01.2021.


Sd/-

**(A.P. Kurhekar)
Member(J)**

vsm

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

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Original Application No. _____ of 20 _____

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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Date : 18.12.2020

O.A.No.636 of 2018

B. N. Gadage

....Applicant

Versus

The State of Maharashtra & Ors.

...Respondents.

1. The Applicant and his Counsel are absent. Smt. Archana B. K., learned Presenting Officer for the Respondents 1 to 3 and Ms Vrushali Katkar, learned Counsel for the Respondent No.4 are present.

2. Perusal of record reveals that the Applicant and his Counsel both were absent on various dates.

3. On 09.07.2019, the Applicant and his Counsel both were absent, and therefore, the matter was dismissed in default. However, in the second session, learned Counsel for the Appeal appeared and requested to restore the O.A.. Accordingly, O.A. was restored for decision on merit and was adjourned to 10.07.2019.

4. Thereafter when the matter was listed on 11.12.2020 for hearing, that day also the Applicant and his Counsel are absent and the matter was adjourned to give one more opportunity for hearing and it was listed for today. However, today also the Applicant and his Counsel are absent. Thus, the conduct of the Applicant and his counsel shows that they are not interested in the matter.

4. In view of above, Original Application is dismissed in default.

Sd/-

(A.P. Kurhekar)
Member(J)

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

I N

Original Application No. of 20

FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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Date : 18.12.2020

O.A.No.637 of 2018

D. C. Pawar

....Applicant

Versus

The State of Maharashtra & Ors.

...Respondents.

1. The Applicant and his Counsel are absent. Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents is present.

2. This matter was lastly listed before the Tribunal in the month of March, 2020 and thereafter it remains unlisted due to Covid-19 pandemic situation.

4. In view of above, the matter is adjourned to give one opportunity to the Applicant and his Counsel for hearing.

5. S.O. to 21.01.2021.

Sd/-

W
(A.P. Kurhekar)
Member(J)

vsm

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

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FARAD CONTINUATION SHEET No.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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Date : 18.12.2020

O.A.No.547 of 2017

C. K. YerunkarApplicant

Versus

The State of Maharashtra & Ors. ...Respondents.

1. The Applicant and his Counsel are absent. Smt. Kranti Gaiwad, learned Presenting Officer for the Respondents is present.
2. There is a leave note of Shri A.V. Bandiwadekar, learned Counsel for the Applicant.
3. Apart, lastly the matter was listed on 05.02.2020 and thereafter due to Covid-19 pandemic situation, it remains unlisted.
4. In view of above, the matter is adjourned for final hearing.
5. S.O. to 24.12.2020.

Sd/-

W
**(A.P. Kurhekar)
Member(J)**

vsm

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. of 20

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Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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Date : 18.12.2020

O.A.No.842 of 2017

B. A. Dane & Ors

...Applicant

Versus

The State of Maharashtra & Ors.

...Respondents.

1. Heard Shri C. T. Chandratre, learned Counsel for the Applicant and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents.

2. This matter was lastly listed on 23.03.2020 and thereafter it remains unlisted due to Covid-19 pandemic situation. Today, for the first time, it is listed for final hearing.

3. Learned Counsel for the Applicant requested for short time for final hearing.

4. The matter is adjourned to 24.12.2020.

Sd/-

**(A.P. Kurhekar)
Member(J)**

vsm

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No. _____ of 20 _____

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Original Application No. _____ of 20 _____

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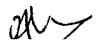
Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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14.12.2020

O.A 791/2020

D.G Rajput ... Applicant
Vs.
The State of Maharashtra & Ors ... Respondents

1. Heard Shri A.S Koparkar i/b Shri Pritish Oak, learned advocate for the applicant and Ms Swati Manchekar, learned C.P.O for the Respondents.
2. Learned P.O files affidavit in reply. The same is taken on record.
3. Admit. S.O to 11.1.2021 for final hearing.

Sd/- 

|'
**(Mridula Bhatkar, J.)
Chairperson**

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IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NOS 768 OF 2020

DISTRICT : MUMBAI

Shri Devendra S/o Tukaram Katke,)
Occ : Government service)
Deputy Collector [Resettlement and)
Rehabilitation, MMRDA, Bandra [E],)
Mumbai 400 051.)...**Applicant**

Versus

1. The Government of Maharashtra)
Through its Principal Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai 400 032.)
2. Mumbai Metropolitan Region)
Development Authority,)
through its Metropolitan)
Commissioner,)
Bandra Kurla Complex,)
Bandra [E], Mumbai 400 051.)...**Respondents**

Shri S.B Talekar, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : Justice Mridula Bhatkar (Chairperson)

DATE : 18.12.2020

ORDER

1. Heard Shri S.B Talekar, learned advocate for the applicant and Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.



2. The applicant, Deputy Collector, (Resettlement and Rehabilitation), MMRDA, Mumbai, challenges the order dated 15.12.2020 transferring him from his post in MMRDA, Mumbai to post of Deputy Collector, (Land Acquisition) (Road Projects), Yevatmal.

3. The applicant was originally given posting in Aurangabad Division. He was working as Deputy Collector, Jalna before he was sent on deputation by order dated 25.2.2019 for one year to the present post in MMRDA, Mumbai. Thus, he completed one year of his deputation on 25.2.2020. Learned Counsel Shri Talekar has submitted that the order of transfer is illegal, arbitrary, malafide and discriminatory. The Respondents have breached the rules and the procedure laid down under Maharashtra Civil Services (Joining Time, Foreign Service and payment during Suspension, Dismissal & Removal) Rules, 1981 (hereinafter referred to as The Rules of 1981). He pointed out that as per Rule 40, sub rule 4 read with Appendix-II, Rule 1(i) of the Rules, under which a civil servant can be transferred to a Foreign Service. However, such posting is subject to the conditions and rules provided under the Rules of 1981. The normal tenure of deputation under the Rules of 1981 is three years and in the case of the applicant he has made a representation dated 4.2.2020 to extend his period of deputation, as a short period of one year was given to him at the present place of posting. Learned Counsel Shri Talekar has submitted that his two children are taking education in Mumbai and the applicant has taken admission for his children and has paid fees in the Educational Institution.

4. Learned counsel Shri Talekar submitted that MMRDA has also given favourable remarks for extending the deputation of the applicant in MMRDA. However, the Government did not decided

the representation dated 4.2.2020 submitted by the applicant. Instead of deciding the representation, issued mid-term transfer orders on 15.12.2020 in breach of Rule 4(4)(ii) & 4(5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred as 'ROT Act 2005' for brevity). Learned counsel for the applicant further submitted that there was no proposal of transfer of the applicant to his parent department and his original Division. The applicant should not have been transferred to Yevatmal, but he should have been transferred to Aurangabad Division. Neither special case is made out nor exceptional circumstances are pointed out for his transfer. He submitted that the real reason for transfer of the applicant is different that the applicant has exposed the mal practices in MMRDA and in fact he has saved MMRDA from loses of 25 crores in the case of giving compensation of Project Affected Persons. Learned counsel for the applicant further pointed out the complementary remarks passed by Mr. Rajeev, Metropolitan Commissioner, MMRDA, who has appreciated work of the applicant as 'excellent'. Learned counsel for the applicant has submitted that the applicant is unwanted because of his clean approach, and therefore, there are some groups acting against him. In order to accommodate those persons, he has been made a scapegoat and he is transferred.

5. Learned counsel for the applicant has submitted that his transfer is malafide and discriminatory as other officers who were sent on deputation by the Government, though have completed more than 3 years, 5 years and in some cases 9 years in MMRDA and are continuing to work there without any disturbances, the applicant is singled out and has suffered discrimination at the hands of the Respondents. He further submitted that one female

officer Ms Takle, who has joined in July, 2019, came last. However, she is also retained. Learned counsel for the applicant on this point relied on the judgments of Hon'ble Supreme Court in **Punjab and Sind Bank & Others Vs. Durgesh Kuwar, Civil Appeal No. 1809/2020 (Arising out of SLP (C) No. 11985/2019)** and **State of Punjab & Anr Vs. Brijeshwar Singh Chahal & Anr (2016) 6 SCC 1.**


6. Learned Chief Presenting Officer has obtained the instructions and she wanted time to file reply. However, as urgency was pleaded by the learned counsel Shri Talekar, for grant of interim relief, learned C.P.O had submitted that she will file reply in detail after four weeks. However, she opposed grant of interim relief on the basis of available instructions and produced the available record. She pointed out that the applicant was sent on deputation only for a period of one year and when his one year period was over, he was due for transfer and therefore, the Government transferred him mid-term on the ground that more than 15% of the post of Deputy Collector in the State are vacant. The work of conducting the elections to the Gram Panchayat in all the Districts over the State of Maharashtra had started by the State Election Commission and therefore, filling up the post of Deputy Collector for election work is necessary. She pointed out that in the order of transfer there is reference of the guidelines of the Election Commission. She produced the minutes of the Civil Services Board which was conducted and submitted that the meeting of the Civil Services Board took place on 3.11.2020 and special reason was specifically mentioned in the order. She further submitted that the transfer of the applicant was approved by the competent authority, i.e. Minister, Revenue & Forest Department as mentioned in Section 6 and there is no breach of Sections 4(4)(ii) and 4(5) of the 'ROT Act 2005'.



7. Learned counsel Mr Talekar, while meeting the reply of the Respondents, has argued that the reason given that more than 15% of the post of Deputy Collector are vacant is false as they are transferring other Deputy Collectors on deputation. On the same day of his transfer dated 15.12.2020, one Deputy Collector, Shri Ajit Deshmukh, was transferred to Pune in Foreign Service and therefore the excuse of more than 15% vacancies are lying vacant is nothing but an eye wash


8. Perused all the documents produced by both the parties. The applicant admittedly was sent on deputation by order dated 25.2.2019 for a period of one year. As per G.R dated 16.2.2018, laying down the policy of deputation, it is mentioned that the initial deputation should be for a period of 3 years and after considering the willingness of the said officer and the Department, extension can be given for one more year. However, no period can be extended beyond 5 years. In the said G.R, it is specifically mentioned that the Government cannot send the officer from a particular posting if more than 15% posts than the sanctioned strength are vacant.

9. In the additional affidavit dated 18th December, 2020 filed by the applicant, he has given details about the posts of Deputy Collector. He stated that 600 posts in the cadre of Deputy Collector are sanctioned in the Revenue and Forest Department of State of Maharashtra, however, the working strength is 650 and there are 82 vacancies in the cadre of Deputy Collector and thus as on today about 21% of sanctioned strength of Deputy Collector in Revenue & Forest Department are working in Foreign Service on deputation against the upper ceiling of 15% provided under the G.R dated 16.8.2018. Thus the reason for transfer that filling of vacancies of Deputy Collectors which are more than 15% is a valid reason.



Considered Rule 40 read with Appendix II (i), which deals with period of deputation, which doesn't say that minimum period of deputation should be 3 years. However, it states that the Government servant shall be on deputation for a period (stated the period) years in the first instance and thereafter the Government can recall that person in the interest of public if he is required and after expiry of period of deputation. If his services are not required by the foreign employer, then he can be sent back after notice of three months. He can be reverted to the parent department after he gives 3 months' notice if he wants to come back.

10. Thus, the decision taken by the Government and the procedure followed by the Government in the present case is consistent with Rule 40(1) and Appendix II(i) of the 1981 Rules. The main grievance of the applicant is that discriminatory treatment is given to him, because other officers who have completed more than 3 years, 5 years or 9 years are continuing in MMRDA, Mumbai, except the applicant. What he has stated about the completion of the period of other officers for a longer time is not denied by the Respondents. However, on instructions, the learned C.P.O had submitted that the Government has also processed the files of other such Deputy Collectors for transfer. The allegations made by the applicant of malice or vengeance are vague. It is pointed out by learned counsel Shri Talekar that he has done commendable job of blocking 25 crores loss to the Government. His work was appreciated by the Metropolitan Commissioner. He was also given additional charge during his period. However, it is for the Government to decide which officer can be placed at which place considering the competency, performance and genuine suitability to run the administration smoothly.




11. It is useful to refer to the ratio laid down in the two cases relied on by Shri Talekar, learned counsel for the applicant.

In **Mrs Durgesh Kuwar's** case (supra), who was working as Chief Manager was transferred from Indore to Sarsawa, in District Jabalpur, Madhya Pradesh. While upholding the challenge to the said order, Supreme Court held that unless an order of transfer is established to be malafide or contrary to the statutory rules or has been issued by an authority not competent to order transfer, the Court in exercise of judicial review would not be inclined to interfere.

In **Brijeshwar Singh Chahal's** case (supra), the Supreme Court has summed up the legal propositions. Hence it is found useful in the present set of facts, which reads as under:-

“Judicial review of any such appointments will, however, be limited to examining whether the process is affected by any illegality, irregularity or perversity /irrationality. The Court exercising the power of judicial review will not sit in appeal to reassess the merit of the candidates, so long as the method of appointment adopted by the competent authority does not suffer from any infirmity.”

12. Learned C.P.O has informed that Departmental Enquiry is initiated on 3.12.2020 against the applicant for his misconduct at Aurangabad. Therefore, he is given posting in Yevatmal, i.e. out of his Division. On query, learned C.P.O stated that it was not a reason to transfer him as the meeting of the Civil Services Board was conducted earlier, i.e. on 3.11.2020 and further pointed out that along with the present applicant, other two officers from different foreign service are also called back and the reason given was crossing the ceiling of 15%.



13. It is to be noted that the applicant has accepted his deputation wherein the period of deputation was specifically mentioned as one year. It is not the case that he was transferred prior to the completion of the deputation period i.e. mid-tenure. Moreover, due to Corona-19 Pandemic, the officers were not transferred in March, 2020 and therefore, he is transferred in December, 2020. The grievance of the applicant that why he was the first person to be transferred out, cannot be a legal ground to stay the order of transfer because in such process of transfer somebody is bound to be the first person to be transferred.

14. I am of the view that no prima facie case is made out to stay the transfer order. It is considered that out of the two children of the applicant, one is studying in 6th standard and one had taken admission in I.I.T, Mumbai. However, on request, learned C.P.O has submitted that the Government will allow to keep the service quarters for three months or till the academic year of the children get over.

15. Learned C.P.O seeks time to file affidavit in reply.

16. In view of the above, no case is made out for grant of interim relief. The same is rejected.

17. S.O to 25.2.2021.

Sd/-

(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai

Date : 18.12.2020

Dictation taken by : A.K. Nair.