

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 307/2017
(Shri Prakash S. Gadekar V/s. State of Mah. & Ors.)

Coram : Hon'ble Shri B.P. Patil, Member (J)

DATE : 02-06-2017

ORAL ORDER:-

Heard Shri V.B. Wagh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The learned Advocate for the applicant sought permission to amend the prayer clause (B) of the original application suitably. Leave as sought for is granted. The applicant to carry out the said amendment forthwith.

3. The learned Advocate for the applicant has submitted that by the impugned order dated 30.5.2017 issued by the res. no. 1, the applicant, who is serving as a Craft Instructor in I.T.I., Osmanabad, has been transferred to the I.T.I., Biloli, Dist. Nanded. He has submitted that the son of the applicant is studying in 10th standard for the academic year 2017-18 and, therefore, it is just to retain the applicant at Osmanabad or he may be posted at adjacent places i. e. at I.T.I., AUSA or I.T.I., Latur. He has submitted that due to this transfer order the education of the applicant's son would be hampered and therefore he prayed to grant the interim relief.

4. The learned C.P.O. submits that the applicant has completed his tenure at Osmanabad and he is at Osmanabad from the year 2010. He has further submitted that the applicant has given his option form and accordingly he has been transferred from Osmanabad to Biloli, Dist. Nanded. He has submitted that the applicant will be relieved from Osmanabad on 7.6.2017 and, therefore, there is no urgency.

5. I have gone through the bona fide certificate dated 8.4.2017 issued by the Headmaster of Shripatrao Bhsale Primary and Higher Secondary School, Osmanabad and it seems that the applicant's son is studying in 10th standard for the academic year 2017-18. The distance between Osmanabad and Biloli is 350 Kms. approximately. Due to impugned transfer order it would be difficult for the applicant to take care of his son.

6. In the circumstances, it is just to direct the respondents to maintain the Status quo till 7.6.2017.

7. After carrying out the amendment, issue notices to the respondents in the original application, returnable on 7.6.2017.

8. Tribunal may take the cases for final disposal at this stage and separate notice for final disposal shall not be issued.

9. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is 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 question 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. S.O. 7.6.2017.

13. Steno copy & hamdust allowed to both the parties.

MEMBER (J)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 308/2017

(Shri (Dr.) Vitthal L. Paratwagh V/s. State of Mah. & Ors.)

Coram : Hon'ble Shri B.P. Patil, Member (J)

DATE : 02-06-2017

ORAL ORDER:-

Heard Shri Shamsunder B. Patil, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The learned Advocate for the applicant has submitted that the applicant is working as a Medical Officer (Group – A) in the District Nuclear Center, A.D.H.S. (Leprosy), Nanded since 7.6.2016 (paper book page 17). He has submitted that the applicant is going to retire on 31.3.2018 and he has not completed his normal tenure at Nanded. He has further submitted that by the impugned order dated 31.5.2017 issued by the res. no. 1 the applicant has been transferred from Nanded to Primary Health Center, Phalegaon, Dist. Hingoli when the he was at the verge of retirement. The learned Advocate for the applicant submits that the impugned order has been issued by the res. no. 1 in violation of provisions of the Transfer Act, 2005 and therefore he prayed for interim relief.

3. The learned C.P.O. submitted that the applicant has been transferred on account of administrative exigency in view of the provisions of the Transfer Act, 2005. He therefore supported the order under challenge. He has further submitted that the detailed affidavit in reply is to be filed by the respondents and therefore he prayed for grant of time.

4. On considering the facts and circumstances of the case, it seems that the transfer of the applicant is made when he is at the verge of retirement and it would be in contravention of the provisions of the Transfer Act, 2005 and therefore it is just to stay the impugned order to the extent of the present applicant only, till filing of the affidavit in reply by the respondents.

5. Issue notices to the respondents in the original application, returnable on 16.6.2017.

6. Tribunal may take the cases for final disposal at this stage and separate notice for final disposal shall not be issued.

7. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly

authenticated by Registry, along with complete paper book of O.A. Respondent is 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 question 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. S.O. 16.6.2017.

11. Steno copy & hamdust allowed to both the parties.

MEMBER (J)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT NAGPUR**

ORIGINAL APPLICATION NO. 311/2017

[Shri Raju H. Adhe Vs. The State of Mah. & Ors.]

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 02.06.2017.

ORAL ORDER:

Heard Shri V.B. Wagh, learned Advocate for the Applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents.

2. Learned Advocate for the applicant has submitted that the applicant is serving as a Senior Clerk in the office of Deputy Director of Prosecutor, Aurangabad since the year 2011. He is due for transfer. He has submitted that the applicant has made request to transfer him at Pune, Nashik or Jalna. He has made representation with the respondent and requested to retain him at Aurangabad on account his family problem, but his representation has not been considered and he has been transferred to Beed. Learned Advocate for the applicant has further submitted that the representation of employees who were due for transfer and working at Pune, Nashik and Jalna have been considered by the respondents and they were retained there and therefore, the request of the applicant had not been considered for posting him at Pune, Nashik or Jalna. Therefore, it would be just to stay the impugned order of transfer considering the genuine difficulty of the applicant.

3. Learned Chief Presenting Officer has submitted that the applicant is serving at Aurangabad since the year 2011 and he has completed his tenure of posting at Aurangabad and therefore, he has been transferred on the vacant post at Beed and there is no illegality in the order under challenge and therefore, he has strongly opposed to grant interim relief.

4. On perusal of the documents it reveals that the applicant has completed his tenure at Aurangabad and therefore, he has been transferred to Beed on vacant post and his representation is not been considered by the respondents. Prima-facie, there is no illegality in the order under challenge and therefore, interim relief as prayed for by the applicant cannot be granted.

5. Issue notices to the respondents, returnable on 30.06.2017.

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

7. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the O.A. 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. S.O. 30.06.2017.

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

MEMBER (J)

ORAL ORDERS 02.06.2017-KPB(SB)BPP

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT NAGPUR**

**ORIGINAL APPLICATION NO. 312/2017
[Smt. Rajshree Genba More Vs. The State of Mah. & Ors.]**

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 02.06.2017.

ORAL ORDER:

Heard Shri S.S. Shinde, learned Advocate for the Applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for respondents.

2. Leaned Advocate for the applicant has submitted that the applicant was previously working as a Food Purchase Officer at Latur and she has been transferred as Tahsildar, Udgir Dist. Latur by order dated 21.07.2016. The applicant has not completed one year at Udgir after issuance of order of 2016. But she has been transferred by impugned order dated 31.05.2017 to Latur. He has submitted that in the impugned order dated 31.05.2017 it has been mentioned that she has been transferred on her request but in fact she never made request for transfer and therefore, he prayed to stay the impugned order.

3. Learned Chief Presenting Officer has submitted that he has a talk with the Deputy Commissioner, Aurangabad and as per the instructions received to him, the oral request has been made by the applicant for her transfer before the Civil Service

Board and on considering her oral request, she has been transferred. He has submitted that the affidavit in reply will be filed on the next date and therefore, he prayed for time to file affidavit in reply.

4. The applicant and the respondents have made statement regarding request transfer of the applicant, the respondents are going to file affidavit in that regard. In these circumstances, it would be just and proper to grant time to the respondents to file detailed say and relevant documents. In the meantime, the respondents shall maintain the status-quo, if the applicant is not relieved.

5. Issue notices to the respondents, returnable on 08.06.2017.

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

7. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the O.A. 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. S.O. 08.06.2017.

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

MEMBER (J)

ORAL ORDERS 02.06.2017-KPB(SB)BPP

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 309 OF 2017

(Dr. Sudhakar Keshavrao Mundhe Vs. The State of Maharashtra and Others.)

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 02.06. 2017.

ORAL ORDER : -

1. Heard Shri V.B. Wagh – learned Advocate for the applicant and Shri M.S. Mahajan – learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicant submitted that the applicant was serving as Medical Officer at Rural Hospital, Devgaon Rangari, Tq. Kannad, Dist. Aurangabad. He has been transferred to Sub District Hospital, Vaijapur, Tq. Vaijapur, District Aurangabad by an order dated 5th May, 2017 issued by the Committee headed by the Collector, Aurangabad. The applicant has been relieved accordingly from the post of Medical Officer Devgaon Rangari, Tq. Kannad, on 29.05.2017 by the Medical Superintendent, Rural Hospital Devgaon Rangari, Tq. Kannad, District Aurangabad. Thereafter, he approached the Civil Surgeon, Aurangabad and submitted his joining report. Accordingly, Civil Surgeon, Aurangabad has passed an order dated 31.05.2017 and directed the applicant to join new posting in the Sub District Hospital, Vaijapur. Accordingly, the applicant has joined on the said post on 1st June, 2017. He has submitted that

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meanwhile the Government has issued an order dated 31.05.2017 and transferred the applicant from the post of Medical Officer, Rural Hospital, Devgaon Rangari to the post of Medical Officer at Sub District Hospital, Gangapur, Tq. Gangapur, District Aurangabad. Learned Advocate for the applicant has submitted that the applicant apprehends that the Civil Surgeon, Aurangabad, will relieve him from the post of Medical Officer, Sub District Hospital, Vaijapur on the basis of impugned order. Therefore, he prayed to grant stay to the impugned transfer order dated 31.05.2017 (Annexure 'A-5' p.b. page-23).

3. Learned Chief Presenting Officer for the respondents has submitted that the applicant has been relieved from the post of Medical Officer, Rural Hospital Devgaon Rangari, Tq. Kannad, District Aurangabad and he joined his new posting as Medical Officer, Sub District Hospital, Vaijapur, Tq. Vaijapur, District Aurangabad on 1st June, 2017. Therefore, no question of relieving the applicant from the post of Medical Officer, Sub District Hospital, Vaijapur, Dist. Rural Hospital, Devgaon Rangari, Tq. Kannad, District Aurangabad, arises. He has submitted that he wants to take instruction from the respondents regarding current situation and, therefore, he sought time.

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4. On perusal of the document, it reveals that the applicant has already been relieved from the post of Medical Officer, Rural Hospital, Devgaon Rangari and he joined his new posting as Medical Officer, Sub District Hospital, Vaijapur on 1st June, 2017, in view of order dated 5.5.2017 passed by Committee headed by the Collector, Aurangabad. Therefore, prima facie it appears that the impugned transfer order become infructuous. Therefore, no question of implementing of the said order arises. In the circumstances, it would be just and proper to grant time to the respondents to file their detailed affidavit in reply. Hence, issue notices to the respondents, returnable on 30th June, 2017.

5. Tribunal may take the case/s for final disposal at this stage and separate notice for final disposal shall not be issued.

6. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

7. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules,

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1988, and the question such as limitation and alternate remedy are kept open.

8. 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.

9. S.O. to 30th June, 2017.

10. Steno copy and hamdust is allowed to both the parties.

MEMBER (J)

ORAL ORDERS 02.06.2017 – HDD(SB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 310 OF 2017

(Dr. Dilip Bhaskar Dange Vs. The State of Maharashtra and Others.)

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 02.06. 2017.

ORAL ORDER : -

1. Heard Shri Shamsundar Patil – learned Advocate for the applicant and Shri M.S. Mahajan – learned Chief Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant has been transferred by the impugned transfer order dated 31.05.2017 from the post of Medical Officer (Group-A), Sub District Hospital, Gangapur, Tq. Gangapur, District Aurangabad to the post of Medical Officer (Group-A), Primary Health Center, Shendurwada, District Aurangabad. He has submitted that respondent No. 5 Dr. Aparna Santosh Joshi, has been transferred in his place. He has submitted that in the impugned transfer order respondent No. 5 has shown again transferred from her post to Sub District Hopistal, Gangapur, District Aurangabad. Her two transfers have been shown in the impugned transfer order at Sr. Nos. 63 & 276. He has submitted that the order is illegal and, therefore, he prays to stay the execution of impugned transfer order. He has further submitted that the applicant is going to

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retire in the month of October, 2018 and the said order has been effected when he is on the verge of retirement.

3. Learned Presenting Officer has submitted that he has to take instructions from the respondents as to how name of the respondent No. 5 (Dr. Aparna Santosh Joshi), appeared twice in the impugned transfer order dated 31.05.2017. He has submitted that the applicant has been transferred from the post of Medical Officer (Group-A), Sub District Hospital, Gangapur, Tq. Gangapur, District Aurangabad to the post of Medical Officer (Group-A), Primary Health Center, Shendurwada, Tq. Gangapur, District Aurangabad and the distance between said two places is only 15 K.M. and, therefore, no inconvenience will be caused to the applicant, even the impugned transfer order dated 31.05.2017 has been issued on the verge of his retirement. He has submitted that the time may be granted to him to file affidavit in reply on taking instructions from the respondents and, therefore, he sought time. He has further submitted that the prayer for interim relief may be rejected.

4. Considering the fact that the distance between two places i.e. Gangapur and Shendurwada is only 15 K.M., no inconvenience will be caused to the applicant due to the transfer. As regards the transfer of respondent No. 5 at two

places, respondents has to file detailed affidavit in reply. In these circumstances, it would be just and proper to grant time to the respondents to file affidavit in reply. Issue notices to the respondents, returnable on 30th June, 2017.

5. Tribunal may take the case/s for final disposal at this stage and separate notice for final disposal shall not be issued.

6. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

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

8. 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.

9. S.O. to 30th June, 2017.
10. Steno copy and hamdust is allowed to both the parties.

MEMBER (J)

ORAL ORDERS 02.06.2017 – HDD(SB)