

O.A.No.501/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

C.A.No.155/2018:-

Heard Shri S.S.Patil, Id. Counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the Respondents.

The proposal for regularization has been submitted to The State of Maharashtra. In view of this, the respondent nos. 1 & 2 are directed to decide the proposal **within six weeks**, as per the law.

Hence C.A. alongwith O.A. stands disposed off. No order as to costs.

Steno copy is granted.

Member (A)

aps.

O.A.No.327/2018 (S.B.)

Coram : Hon. Shri Shree Bhagwan,
Member (A)

Dated : 20.08.2018.

Heard Shri G.K.Bhusari, Id. Counsel for the applicant, Shri V.A.Kulkarni, Id. P.O. for the Respondent nos. 1 & 2 and Shri S.N.Gaikwad, Id. counsel for the respondent no. 3.

The Id. P.O. and Ld. C.P.O. are directed to file the reply within ten days, this will be treated as a last chance, if reply is not filed within ten days, than the O.A. will be decided on merit.

S.O. 30/08/2018

Steno copy is granted.

Member (A)

aps.

O.A.No.494/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

Heard Shri Sheikh Ayyub, Id. Counsel for the applicant and Shri M.I.Khan, Id. P.O. for the Respondents.

The Id. P.O. has filed the affidavit-in-reply on behalf of the respondent no. 3. The same is taken on record. Copy is served to the other side.

In affidavit-in-reply of P.B., Pg. No. 56 in para no. 4 it is mentioned that *"It is submitted that the applicant is transferred vide order dated 31/05/2018 and 20/06/2018 she is relieved from Akola by the office of the respondent no. 3 as per the abovesaid transfer order issued by the respondent no. 2. The office of the respondent no. 3 has already release the salary of the applicant upto 20/06/2018 i.e. for 20 days of the month of*

*June on 02/07/2018. The copy of the last pay certificate dtd. 06/07/2018 is annexed as **Annexure-R3-I.***

However, in pay-slip the department has carelessly mentioned at Sr. No. 2:- R; kkk 30-06-2018 i ; r [Akyhy njkusoru ns ; kr vkysvkg

It seems that, the department is carelessly put both these documents before the Tribunal and the same is also not signed.

The Id. P.O. is directed to produce the corrected document on record about the salary and the same must be signed by the responsible officer.

S.O. tomorrow i.e. 21/08/2018.

Member (A)

aps.

O.A.No.636/2018 (S.B.)

Coram : Hon. Shri Shree Bhagwan,
Member (A)

Dated : 20.08.2018.

Heard Shri A.M.Sudame, Id. Counsel for the applicant and Shri S.A.Deo, Id. C.P.O. for the State.

2. The Id. counsel for the applicant pointed out the impugned order at P.B., Pg. No. 17 (Annexure-A-1) bearing no. '11 u vnsA] dekd & cnyh&2018@i z dz 200@18@of dk&1] dated 14/08/2018, in which the applicant is at Sr. No. 2.

3. The Id. counsel for the applicant has also placed Hon'ble High Court Judgment on record which is marked Exh. "X" for the purposes of identification. In the said Judgment at para no. 7 :- *The mid-term or pre-mature special transfer has to be strictly according to law, by a reasoned order in writing and after the due and prior approval from the competent transferring*

authority concerned for effecting such special transfer under the Act. The exercise of exceptional statutory power has to be transparent, reasonable and rational to serve objectives of the Act, as far as possible, in public interest. Mandatory requirements of the provision under Section 4 (5) of the Act cannot be ignored or by-passed. The exceptional reasons for the special mid-term or premature transfer ought to have been stated in writing. Vague, hazy and meagre expression such as "on administrative ground" cannot be a compliance to be considered apt and judicious enough in the face of mandatory statutory requirements.

4. Under the impugned order at Sr. No. 2, the applicant is Associate Professor in Medicine Department, in G.M.C., Yavatmal and as per the Id. counsel for the applicant on P.B. Pg. No. 23, the applicant is a Post Graduate Guide for the five students, who are registered for

MDMedicine course under the Maharashtra Government.

5. The Id. counsel for the applicant pointed out that by shifting of applicant under impugned order at P.B., Pg. No. 17 (Annexure-A-1) bearing no. 'AkI u vlnsA] d&1] & cnyh&2018@i z d z 200@18@of d&1] dated 14/08/2018, in which the applicant is at Sr. No. 2, the researcher will suffer and lastly the Id. counsel for the applicant pointed out that Medical Council of India inspected the GMC Yavatmal, the applicant as Associate Prof. appeared before the inspection team and the same is due in the year, if the applicant is transferred than it will create problem.

6. As pointed out by Id. C.P.O. in the impugned order at P.B., Pg. No. 17 (Annexure-A-1) bearing no. 'AkI u vlnsA] d&1] & cnyh&2018@i z d z 200@18@of d&1] dated 14/08/2018 in para no.

2:- ojhy l g; kxh i k/; ki dkk; k cnY; k egkj"V" 'kkl dh;
depk&; kR; k cnY; kps fofu; eu vkf.A 'kkl dh; drD; s i kj
i kMrkuk gksAk&; k foyckl ifrcdA dk; nk 2005 e/Any dye
4¼4½ ¼nksu½ o ¼5½ e/Any rjrnmpk voyæ d: u dj.; kr ; r
vkgr-

7. It is clear that "*The Maharashtra Government Servants Regulation of Transfers & Prevention of Delay in Discharge of Official Duties Act, 2005*" has been complied and then order has been issued, regarding other points of Id. counsel for the applicant also denied by the Id. C.P.O.

8. Issue notice to R-2 & 3, returnable on 11-09-2018. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

10. 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.

11. 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.

12. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

13. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

14. **S.O. 11-09-2018.**

Member (A)

aps.

O.A.No.637/2018 (S.B.)

Coram : Hon. Shri Shree Bhagwan,
Member (A)

Dated : 20.08.2018.

Heard Shri A.M.Sudame, Id. Counsel for the applicant and Shri S.A.Deo, Id. C.P.O. for the State.

2. The Id. counsel for the applicant pointed out the impugned order at P.B., Pg. No. 18 (Annexure-A-1) bearing no. '11 u vnsA] dekd & cnyh&2018@i z dz200@18@of dk&1] dated 14/08/2018, in which the applicant is at Sr. No. 1.

3. The Id. counsel for the applicant has also placed Hon'ble High Court Judgment on record which is marked Exh. "X" for the purposes of identification. In the said Judgment at para no. 7 :-*The mid-term or pre-mature special transfer has to be strictly according to law, by a reasoned order in writing and after the due and prior approval from the competent transferring*

authority concerned for effecting such special transfer under the Act. The exercise of exceptional statutory power has to be transparent, reasonable and rational to serve objectives of the Act, as far as possible, in public interest. Mandatory requirements of the provision under Section 4 (5) of the Act cannot be ignored or by-passed. The exceptional reasons for the special mid-term or premature transfer ought to have been stated in writing. Vague, hazy and meagre expression such as "on administrative ground" cannot be a compliance to be considered apt and judicious enough in the face of mandatory statutory requirements.

4. Under the impugned order at Sr. No. 1, the applicant is Professor and Head of Department in Orthopedic, in I.G.G.M.C., Nagpur and as per the Id. counsel for the applicant on P.B. Pg. No. 20, the applicant is a Post Graduate Guide for the seven students, who are registered for M.S. Orthopaedics Degree course

under the Maharashtra University of Health Sciences, Nashik.

5. The Id. counsel for the applicant pointed out that by shifting of applicant under impugned order at P.B., Pg. No. 18 (Annexure-A-1) bearing no. 'AkI u vlnsA] d&1] & cnyh&2018@i z d z 200@18@of d&1] dated 14/08/2018, in which the applicant is at Sr. No. 1, the researcher will suffer and lastly the Id. counsel for the applicant pointed out that Medical Council of India inspected the IGGMC Nagpur, the applicant as Prof. and HOD of Orthopedic appeared before the inspection team and the same is due in the year, if the applicant is transferred than it will create problem.

6. As pointed out by Id. C.P.O. in the impugned order at P.B., Pg. No. 18 (Annexure-A-1) bearing no. 'AkI u vlnsA] d&1] & cnyh&2018@i z d z 200@18@of d&1] dated 14/08/2018 in para no.

2:- ojh y i k/; ki dk; k cnY; k egkj k"V^a 'kkl dh; de p k&; k; k
cnY; kps fofu; eu vlf.A 'AkI dh; drD; s i kj i kWrkuk gksAk&; k
foyckl i frca/A dk; nk 2005 e/My dye 4¼4½ ¼nk¼½ o ¼5½
e/My rjrnhpkvoyæ d: u dj.; kr ; s vlg s-

7. It is clear that "*The Maharashtra Government Servants Regulation of Transfers & Prevention of Delay in Discharge of Official Duties Act, 2005*" has been complied and then order has been issued, regarding other points of Id. counsel for the applicant also denied by the Id. C.P.O.

8. Issue notice to R-2 & 3, returnable on 11-09-2018. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

10. 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.

11. 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.

12. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

13. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

14. **S.O. 11-09-2018.**

Member (A)

aps.

O.A.No.638/2018 (S.B.)

Coram : Hon. Shri Shree Bhagwan,
Member (A)

Dated : 20.08.2018.

Heard Shri A.M.Sudame, Id. Counsel for the applicant and Shri S.A.Deo, Id. C.P.O. for the State.

2. The Id. counsel for the applicant pointed out the impugned order at P.B., Pg. No. 18 (Annexure-A-1) bearing no. '11 u vnsA] dekd & cnyh&2018@i zcz200@18@of dk&1]dated 14/08/2018, in which the applicant is at Sr. No. 4.

3. The Id. counsel for the applicant has also placed Hon'ble High Court Judgment on record which is marked Exh. "X" for the purposes of identification. In the said Judgment at para no. 7 :-*The mid-term or pre-mature special transfer has to be strictly according to law, by a reasoned order in writing and after the due and prior approval from the competent transferring*

authority concerned for effecting such special transfer under the Act. The exercise of exceptional statutory power has to be transparent, reasonable and rational to serve objectives of the Act, as far as possible, in public interest. Mandatory requirements of the provision under Section 4 (5) of the Act cannot be ignored or by-passed. The exceptional reasons for the special mid-term or premature transfer ought to have been stated in writing. Vague, hazy and meagre expression such as "on administrative ground" cannot be a compliance to be considered apt and judicious enough in the face of mandatory statutory requirements.

4. Under the impugned order at Sr. No. 4, the applicant is Associate Professor in Department of Medicine, in G.M.C., Nagpur and as per the Id. counsel for the applicant on P.B. Pg. No. 20, the applicant is a Post Graduate Guide for the five students, who are registered for M.D. course in General Medicines

under the Maharashtra Government.

5. The Id. counsel for the applicant pointed out that by shifting of applicant under impugned order at P.B., Pg. No. 18 (Annexure-A-1) bearing no. 'AkI u vknS A] dckd & cnyh&2018@iZdz 200@18@of dk&1] dated 14/08/2018, in which the applicant is at Sr. No. 4, the researcher will suffer and lastly the Id. counsel for the applicant pointed out that Medical Council of India inspected the IGGMC Nagpur, the applicant as Prof. in Department of Medicine appeared before the inspection team and the same is due in the year, if the applicant is transferred than it will create problem.

6. As pointed out by Id. C.P.O. in the impugned order at P.B., Pg. No. 18 (Annexure-A-1) bearing no. 'AkI u vknS A] dckd & cnyh&2018@iZdz 200@18@of dk&1] dated 14/08/2018 in para no. 2:- ojhy i k/; ki dkk; k cnY; k egkj k"V^a 'kkI dh; de p k&; k k

cnY; kps fofu; eu vlf.A 'AkI dh; drD; s i kj i kMrkuk gksAk& k
foyckl i frcaA dk; nk 2005 e/My dye 4¼4½ ¼nk¼ o ¼5½
e/My rjrnþk voyæ d: u dj.; kr ; s vkgf-

7. It is clear that "*The Maharashtra Government Servants Regulation of Transfers & Prevention of Delay in Discharge of Official Duties Act, 2005*" has been complied and then order has been issued, regarding other points of Id. counsel for the applicant also denied by the Id. C.P.O.

8. Issue notice to R-2 & 3, returnable on 11-09-2018. Learned C.P.O. waives notice for R-1. Hamdast allowed.

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

10. 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.

11. 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.

12. The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

13. In case notice is not collected within **three days** and if service report on affidavit is not filed **three days** before returnable date. Original Application shall stand dismissed without reference to Tribunal and papers be consigned to record.

14. **S.O. 11-09-2018.**

Member (A)

aps.

O.A.No.104/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

None for the applicant. Shri H.K.Pande,
Id. P.O. for the Respondent nos. 1 to 4. None for
Respondent nos. 5, 6 & 7.

The Id. P.O. seeks two weeks time to file
affidavit-in-reply. At his request, **S.O. two
weeks.**

*Put up this matter alongwith the
O.A.No.105/2018.*

Member (A)

aps.

O.A.No.105/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

None for the applicant. Shri H.K.Pande,
Id. P.O. for the Respondent nos. 1 to 4. None for
Respondent nos. 5, 6 & 7.

The Id. P.O. seeks two weeks time to file
affidavit-in-reply. At his request, **S.O. two
weeks.**

*Put up this matter alongwith the
O.A.No.104/2018.*

Member (A)

aps.

O.A.No.360/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

Heard Shri G.G.Bade, Id. counsel for the applicant and Shri H.K.Pande, Id. P.O. for the Respondent nos. 1 to 4. None for respondent no. 5.

In order dated 20/07/2018 in para no. 3, the Id. P.O. had pointed out revised order; It seems that grievances of the applicant has been redressed by respondents. However, the Id. counsel for the applicant seeks time till Friday to confirm and place some other facts also in front of the Tribunal. In view of this, **S.O. Friday i.e. 24/08/2018.**

In order dated 06/06/2018 in para no. 2:- *The applicant has given 10 choices to the Transferring authority. Therefore, it is directed that the Transferring Authority to do counseling*

part as per the G.R. dated 09/04/2018 and consider any of the choices given by the applicant. The Id. P.O. to take instructions from the department in this regard whether applicant can be accommodated within choices after counseling. In the meantime, the status-quo limited to the applicant and respondent no. 5 should be maintained till the next date of hearing i.e. 25/06/2018.

The above order is maintained till next date of hearing.

Member (A)

aps.

O.A.No.377/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

Heard Shri S.N.Gaikwad, Id. counsel for the applicant and Shri H.K.Pande, Id. P.O. for the Respondents.

The Id. counsel for the applicant submits that respondents have made certain changes in transfer order. However, copy is not available. The Id. P.O. also seek time to make available copy of the same.

In view of this, **S.O. Thursday i.e.
23/08/2018.**

Member (A)

aps.

O.A.No.410/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

Heard Shri S.A.Marathe, Id. counsel for the applicant and Shri V.A.Kulkarni, Id. P.O. for the Respondents.

The Id. P.O. place on record letter dated 21/06/2018 by Vasanttrao Naik Government Medical College, Yavatmal which is marked Exh. "X" for the purposes of identification. The same is supplied to the other side.

The Id. P.O. further points out the underline sentence of the letter:- Jh pl&Ajh ; k&lk r&Z Jh vo/Ar t&sh ; k& ; k cnyhusfjDr >ky& ; k inkoj : tqd: u ?ls ; kr vkyysvkg&

The Id. P.O. seeks further four weeks time to file affidavit-in-reply but the Id. counsel for the applicant strongly object the same. At

the request of Id. counsel for the applicant, **S.O.**

30/08/2018.

Member (A)

aps.

O.A.No.498/2018 (S.B.)

Coram : Hon. Shri Shree Bhagwan,
Member (A)

Dated : 20.08.2018.

None for the applicant. Shri M.I.Khan, Id.
P.O. for the Respondent nos. 1 to 3 and Shri
A.S.Tiwari, Id. counsel for the respondent no. 4.

The Id. P.O. has submitted the letter
dated 22/07/2018 by Directorate for Nagar
Parishad, Administration, Mumbai by letter no.
id&21@2018@d{1&6@2437 dated 29/06/2018, by
which it appears that the applicant's transfer
order has been stayed and grievances of
applicant's has been redressed.

In view of action taken by respondent
no. 4, the **O.A. is disposed off with no order as
to costs.**

Member (A)

aps.

O.A.No.525/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

Shri S.N.Gaikwad, Id. counsel for the applicant and Shri H.K.Pande, Id. P.O. for the State. Await service of respondent nos. 2 & 3.

As per the request of Id. counsel for the applicant, **S.O. two weeks.**

Member (A)

aps.

O.A.No.549/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

Shri V.Bhise holding for Shri
R.V.Shiralkar, Id. counsel for the applicant and
Shri V.A.Kulakarni, Id. P.O. for the Respondents.

As per the request of Id. P.O., **S.O. four
weeks for reply.**

Member (A)

aps.

O.A.No.573/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

None for the applicant. Shri
P.N.Warjurkar, Id. P.O. for the Respondents.

As per the request of Id. P.O., **S.O. three
weeks for reply.**

Member (A)

aps.

O.A.No.253/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

Shri S.P.Palshikar, Id. counsel for the applicant and Shri M.I.Khan, Id. P.O. for the Respondents.

The Id. P.O. is directed to file the tabular format regarding the date of appointment of the applicant, date of retirement from government service and payment made to the applicant as retirement benefits. So that, these issues can be discussed on merits.

The matter is **admitted** and kept for final hearing, **S.O. 06/09/2018.**

Member (A)

aps.

O.A.No.545/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

Shri S.P.Chavan, Id. counsel for the applicant and Shri S.A.Deo, Id. C.P.O. for the Respondents.

The Id. C.P.O. pointed out that the applicant was temporarily appointed in 1992 and he again temporarily appointed in 1994 as a Medical Officer. The applicant was continued by the respondent by giving one day technical brake till he was made permanent. However, the applicant is claiming regularization from 1992.

The Id. C.P.O. seeks four weeks time to file affidavit-in-reply. **S.O. four weeks.**

Put up this matter alongwith the O.A. No. 546/2018.

Member (A)

O.A.No.546/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

Shri S.P.Chavan, Id. counsel for the applicant and Shri S.A.Deo, Id. C.P.O. for the Respondents.

The Id. C.P.O. pointed out that the applicant was temporarily appointed in 1992 and he again temporarily appointed in 1994 as a Medical Officer. The applicant was continued by the respondent by giving one day technical brake till he was made permanent. However, the applicant is claiming regularization from 1992.

The Id. C.P.O. seeks four weeks time to file affidavit-in-reply. **S.O. four weeks.**

Put up this matter alongwith the O.A. No. 545/2018.

Member (A)

O.A.No.439/2018 (S.B.)

**Coram : Hon. Shri Shree Bhagwan,
Member (A)**

Dated : 20.08.2018.

Shri A.Girdekar, Id. counsel for the applicant and Shri S.A.Sainis, Id. P.O. for the Respondents.

At the request of Id. counsel for the applicant, **S.O. 28/08/2018 for Rejoinder.**

Member (A)

aps.