

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION ST. NO. 676 OF 2017**

**(Smt. Rajmudra D/o. Murlidhar Khillare Vs. The State of  
Maharashtra and Others.)**

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

**DATE : 30.05. 2017.**

**ORAL ORDER : -**

1. Heard Shri S.B. Talekar – 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 to Jalna District Office from Aurangabad District Office without considering her option for retaining her at Aurangabad on account of her family problems. He has submitted that son of the applicant is suffering from Mental Disorder and he is undergoing treatment in IKON Hospital at Aurangabad. He has further submitted that the applicant's husband is also suffering from Brain Stroke and he is also undergoing treatment at Aurangabad. He has submitted that the applicant has made representation / application to the respondents on 06.03.2017, a copy of which is placed on record at p.b. page-71 (Annexure "A-5") thereby requesting the respondents to consider her request regarding her retention at Aurangabad.

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He has further submitted that other 4 employees working in the office of the applicant have also made representations for retention at Aurangabad due to their family problems and their representations have been considered by the respondents and they have been retained at Aurangabad. He has submitted that there is no just reason to reject the request of the applicant and, therefore, he prayed to grant interim relief in favour of the applicant.

3. Learned Presenting Officer has submitted that 4 other employees working in the office of the applicant have genuine family problems and hence, their representations have been considered by the respondents. The applicant is serving at Aurangabad since last 6 years and, therefore, she has been transferred from Aurangabad to Jalna. He has submitted that the husband of the applicant is serving at Sindhkhed Raja, District Buldhana. He has further submitted that Jalna is 60 K.M. away from Aurangabad and distance between Jalna and Sindhked Raja is 30 K.M. only, and therefore, no inconvenience will be caused to the applicant and she can take care of her son, as well as, her husband. He has further submitted that he wants to file detailed affidavit in reply and therefore, he prayed to grant time.

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4. The respondents have called for options for transfer of 5 employees including the applicant and all of them have submitted representation and requested to retain them at Aurangabad due to their family problems. Except the applicant's request, request of all other employees have been considered. Documents on record show that son of the applicant is suffering from Mental Disorder and husband of the applicant is also suffering from Brain Stroke. Representation of the applicant has not been considered by the respondents for the reasons best known to them when the representation of other 4 employees working in the office of the applicant had been considered. In these Circumstances, it would be just to direct the respondents to maintain status quo in the matter if the applicant is not relieved till filing of the affidavit in reply of the respondents.

5. In the meanwhile issue notices to the respondents, returnable on 7<sup>th</sup> June, 2017.

6. Tribunal may take the case/s 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

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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. to 7<sup>th</sup> June, 2017.

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

**MEMBER (J)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 303 OF 2017**

**(Smt. Pallavi D/o. Babasaheb Dabhade Vs. The State of  
Maharashtra and Others.)**

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

**DATE : 30.05. 2017.**

**ORAL ORDER : -**

1. Heard Shri A.D. Aghav – 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 31<sup>st</sup> May, 2017.

**MEMBER (J)**

ORAL ORDERS 30.05.2017 – HDD(SB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 302 OF 2017  
(Shri. Surendra Dattopant Deshpande Vs. The State of  
Maharashtra and Others.)**

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

**DATE : 30.05. 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 has submitted that the applicant is due for retirement on 31<sup>st</sup> December, 2019, but he has been transferred by impugned order dated 19.05.2017 issued by the respondent No. 1, on promotion, on vacant post from the post of Instructor, S.C.P. I.T.I. (Special Component Program), Aurangabad to Group Instructor at I.T.I., Pathri, District Parbhani. He has further submitted that the applicant has made representation dated 25.05.2017 to the respondents and requested the respondents to cancel his posting at Pathri, District Parbhani and to retain him at Aurangabad considering his family problems, as well as considering his date of retirement. Learned Advocate for the applicant has further submitted that the respondents have not taken decision on the said representation and, therefore, the applicant has to take charge of his new posting on 1<sup>st</sup> January, 2017. Therefore, he has requested to direct the

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respondents to consider the applicant's representation dated 25.05.2017 as early as possible.

3. Learned Presenting Officer has no objection to dispose of the present Original Application with a direction to the respondents to decide the representation of the applicant in accordance with rules on its own merits.

4. In view of the aforesaid submissions made on behalf of both the sides, respondent No. 1 is directed to decide the representation of the applicant dated 25.05.2017 on its own merits and in accordance with rules, as early as possible preferably within a period of one month from today.

5. With the above directions the present Original Application stands disposed of with no order as to costs.

**MEMBER (J)**

ORAL ORDERS 30.05.2017 - HDD(SB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 301 OF 2017**

**(Dr. Seema Pralhadrao Panad Vs. The State of  
Maharashtra and Others.)**

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

**DATE : 30.05. 2017.**

**ORAL ORDER : -**

1. Heard Shri V.B. Wagh – learned Advocate for the applicant and Shri S.K. Shirase – learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant has been appointed as Medical Officer at Primary Health Center, Asegaon, Tq. Jintur, District Parbhani vide order dated 23.11.2015. Applicant's husband is serving as Medical Officer in Amravati District. The applicant is not due for transfer but she has requested for her transfer in Jintur Taluka and she has opted for the posting as Medical Officer at Rural Hospital Bori and Jintur. He has further submitted that the Board constituted under the Chairmanship of District Collector, Parbhani, issued transfer order dated 20.05.2017 and applicant has been transferred as Medical Officer at Primary Health Center Wazar. Learned Advocate for the applicant has submitted that while issuing impugned transfer order it has been mentioned that she has been transferred on request but the applicant never opted for the post of Medical Officer at Primary Health Center, Wazar.



Therefore, he prayed to grant interim stay to the execution of the impugned transfer order.

3. Learned Presenting Officer has submitted that the Board has considered the case of the applicant and effected the transfer of the applicant as Medical Officer at Primary Health Center, Wazar. He has submitted that the respondents want to file detailed affidavit in reply and, therefore, he prays for time.

4. On perusal of the impugned transfer order it reveals that the applicant has been transferred on her request, as well as, on complaint by the order of the Board constituted under the Chairmanship of Collector in view of the vide G.R. dated 30.11.2016. Considering the complaint against the applicant and after counseling her and considering the request of the applicant the transfer of the applicant has been made by the Board. Prima facie, there is no illegality in the impugned transfer order. The detail say of the respondents is required to be considered before deciding the interim relief.

5. Hence, issue notices to the respondents, returnable on 7<sup>th</sup> June, 2017.

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6. Tribunal may take the case/s 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. to 7<sup>th</sup> June, 2017.

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

**MEMBER (J)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT NAGPUR**

**(CAMP AT AURANGABAD)**

**ORIGINAL APPLICATION ST. NO. 679 OF 2017**

**(Shri Anil Shivchand Chavan Vs. The State of  
Maharashtra and Others.)**

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

**DATE : 30.05. 2017.**

**ORAL ORDER : -**

1. Heard Shri S.N. Gaikwad – learned Advocate for the applicant and Shri S.K. Shirase – learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant is serving as Hawaldar in Open Prison at Morshi since 16.06.2011. He has submitted that the applicant has not completed normal tenure of his posting, but the respondents have issued the impugned transfer order dated 09.05.2017; thereby transferring the applicant from Morshi to Central Prison at Nagpur w.e.f. 31.05.2017. He has submitted that the marriage of the daughter of the applicant is scheduled on 12.6.2017 and he has made all arrangement at Morshi. He has further submitted that the applicant's son is studying in 12<sup>th</sup> standard and, therefore, it is just to retain the applicant at Morshi for at least one year. He has further submitted that in similarly situated person's case, the respondents have given retention to the concerned employee

on similar ground and, therefore, he prayed to grant stay to the execution of the impugned transfer order.

3. Learned Presenting Officer has submitted that the applicant is going to complete his 6 years' tenure in the month of June, 2017 and, therefore, respondents have effected the transfer of the applicant. He has further submitted that the applicant can manage marriage ceremony of his daughter as it is scheduled on 12.6.2017. He has submitted that the respondents want to file detailed affidavit in reply and, therefore, he sought time. He further submitted that the prayer of the applicant for grant of interim relief may be rejected.

4. On perusal of the documents, it reveals that the applicant is seeking retention at Morshi on the ground of marriage ceremony of his daughter, as well as, education of his son, who is studying in 12<sup>th</sup> standard. The applicant has made representation to the respondents on 11.5.2017 and the same is still pending with the respondents. In these circumstances it is just and proper to direct the respondents to maintain the status quo till filing of the affidavit in reply. Hence, respondents are directed to maintain status quo till filing of their say, if applicant is not relieved from his present post.

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5. In the meanwhile issue notices to the respondents, returnable on 7<sup>th</sup> June, 2017.
6. Tribunal may take the case/s 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. to 7<sup>th</sup> June, 2017.
11. Steno copy and hamdust is allowed to both the parties.

**MEMBER (J)**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT NAGPUR**

**(CAMP AT AURANGABAD)**

**ORIGINAL APPLICATION NO. 292 OF 2017**

**(Shri Arun S/o. Ranu Aage Vs. The State of Maharashtra  
and Others.)**

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

**DATE : 30.05. 2017.**

**ORAL ORDER : -**

1. Heard Shri S.N. Gaikwad – learned Advocate for the applicant and Shri S.K. Shirase – learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that though the applicant has not completed normal tenure of posting, he has been transferred from Police Station Ralegaon to Police Welfare Branch, Yavatmal. He has submitted that the applicant has been transferred before completion of his tenure on previous occasions. He has submitted that no sufficient and special reasons have been recorded while issuing the impugned transfer order. Learned Advocate for the applicant has further submitted that the applicant has not been relieved from the post of In-charge Police Inspector Ralegaon and still he is discharging his duties. Therefore, he prayed to grant stay to the impugned order of transfer.

3. Learned Presenting Officer has submitted that in spite of the efforts taken by him, he could not able to collect the information from the concerned Police Station. Therefore, he

is unable to make statement as to whether the applicant has been relieved or discharging his duties as In-charge of Police Station, Ralegaon. He has further submitted that the impugned order of transfer shows that the approval of the Police Establishment Board has been taken while effecting the transfer order of the applicant. It shows that there might be substantial reason for transfer of the applicant and, therefore, it is necessary to grant time to file detailed say of the respondents. Therefore, he prayed to reject the request of the applicant to grant interim relief.

4. On perusal of the impugned order dated 27.05.2017 it reveals that after approval of the Police Establishment Board the transfer orders have been issued and accordingly the applicant has been transferred to Police Welfare Branch at Yevatmal. No effective date has been mentioned in the order. No relieving order has been passed by the competent/ proper authority. There is no urgency in the matter. Therefore, it is just to grant time to file affidavit in reply before granting interim relief. Hence, issue notices to the respondents, returnable on 30.6.2017.

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 30<sup>th</sup> June, 2017.

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

**MEMBER (J)**



**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT NAGPUR  
(CAMP AT AURANGABAD)**

**ORIGINAL APPLICATION NO. 290/2017  
[Dr. Shilpa D/o J. Bodade Vs. The State of Mah. & Ors.]**

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

**DATE : 30.05.2017.**

**ORAL ORDER:**

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

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

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

4. 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.

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. S.O. 30.06.2017.

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

**MEMBER (J)**

**ORAL ORDERS 30.05.2017-KPB(SB)BPP**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT NAGPUR  
(CAMP AT AURANGABAD)**

**ORIGINAL APPLICATION NO. 291/2017  
[Dr. Mrs. Kavita W/o Dilip Changole (Randhe) Vs. The  
State of Mah. & Ors.]**

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

**DATE : 30.05.2017.**

**ORAL ORDER:**

Heard Shri N.D. Thombre, learned Advocate for the Applicant and Shri S.K. Shirse, learned Presenting Officer for respondents.

2. Perused the documents. The learned Advocate for the applicant has submitted that the applicant has submitted application for transfer request online on 24.02.2017 with a request to retain her at Nagpur on account of her illness as well as, illness of her husband. He has submitted that the respondents have not considered the said request and transferred the applicant. He has further submitted that the respondent no. 6 has joined posting as Medical Officer, Sub District Hospital, Kamptee, Dist. Nagpur before two months, but he has been transferred to the post of the applicant. He has submitted that the respondents have acted mala-fide while effecting transfer of the applicant and therefore, he prayed to grant stay to the impugned order of transfer.

3. Leaned Presenting Officer submitted that the documents produced by the applicant are of the year 2015 & 2016. The applicant has not produced the recent medical certificate of her ill-health and ill-health of her husband. He has submitted that the applicant is due for transfer and therefore, she has been transferred. He has submitted that the applicant was relieved on 26.05.2017 and the responded no. 6 has joined the said posting and therefore, no question of granting interim relief as prayed for by the applicant arises.

4. Perused the documents. On perusal of documents it reveals that the applicant has completed her normal tenure at Nagpur. She is serving at Nagpur since 07.07.2007. The respondents have transferred her at Kamptee as she has completed her normal tenure of posting. The applicant has not produced the recent medical certificate regarding her illness and illness of her husband. She has been relieved from the post of Medical Office, Regional Mental Hospital, Nagpur w.e.f. 26.05.2017. The respondent no. 6 has joined the said posting. In these circumstances, the request to grant of interim relief and grant stay to the impugned order cannot be considered and granted. Therefore, the request to grant interim relief is rejected.

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.

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

**MEMBER (J)**

**ORAL ORDERS 30.05.2017-KPB(SB)BPP**

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 304/2017  
[Shri Arun R. Naik Vs. The State of Mah. & Ors.]**

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

**DATE : 30.05.2017.**

**ORAL ORDER:**

Heard Shri A.S. Deshmukh, 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 has not completed his tenure of posting and he has been transferred out of division in contravention of the provisions of Revenue Division Allotment for appointment by nomination and promotion to the post of Group "A" and Group "B" (Gazetted and Non-Gazetted) of the Government of Maharashtra Rules, 2015. He has further submitted that the transfer of the applicant is made in view of the provision of section 4(5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short the "Transfer Act 2005") but no special reason has been recorded in the order. He has submitted that the applicant has not been transferred in view of the provisions of section 4(1) of the Transfer Act

2005, though he has not completed his tenure of posting. He has placed reliance on the judgment in case of **Purushottam Govindrao Bhagwat Vs. The State of Maharashtra and Ors.** reported in **2012 (3)Bom. C.R. 442**. He has submitted that the applicant is still working as Superintending Engineer, Quality Control Circle, Aurangabad and he has not been relieved till today and therefore, he prayed to grant stay to the impugned order of transfer.

3. Learned Chief Presenting Officer has submitted that the applicant has been transferred in view of the provisions of section 4(5) of the Transfer Act 2005 after recording special reasons. He has submitted that the special reasons might have been recorded by the concerned Board in the minutes of meeting. Therefore, he strongly objected to grant interim relief.

4. On perusal of documents it reveals that the applicant has been transferred before completing his normal tenure of posting. In these circumstances, it would be just and proper to direct the respondents to

maintain status-quo till filing of their say. Therefore, the respondents are directed to maintain status-quo as on today, if the applicant is not relieved from his present posting till filing their say.

5. In the meantime, 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.

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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 30.05.2017-KPB(SB)BPP**