

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1778 OF 2015

NITIN MURLIDHAR UPASANI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. Avinash Deshmukh
AGP for the respondent No.1 : Mr. V.H. Dighe
Advocate for respondent : Mr. Shrimant Mundhe.

CORAM : S.S. SHINDE & A.M. BADAR,JJ.
DATE : 2ND SEPTEMBER,2015.

PER COURT:

1] Heard.

2] This petition is filed taking exception to the order dated 11.2.2015 passed by the Maharashtra Administrative Tribunal in Original Application No. 425 of 2014, filed by the petitioner.

3] Learned counsel for the petitioner submits that the transfer order is in violation of Rule 4(4) and 4(5) of the Maharashtra Government Servants Regulation of Transfers & Prevention of Delay in Discharge of Official Duties Act, 2005(hereinafter referred to as, “the Transfers Act”, for sake of brevity), inasmuch as, no reasons are recorded while passing the impugned transfer order. It is submitted that the transfer order is a mid term transfer. Learned counsel for petitioner invited our attention to Annexure B at Page 37 of the compilation and submits that though the officer shown at Sr. No.2 in the said letter is subordinate to the petitioner, so far as the work and duties supposed to be performed by the petitioner, part of it was allotted to the said junior officer. Learned counsel for the petitioner, in support of his contention that special reasons are required to be assigned for mid term transfers, pressed into service the exposition of the Division Bench of this Court in the case of *Pradeepkumar s/o. Kothiram*

Deshbhratar Vs. State of Maharashtra and others, 2011 (5) Mh.L.J. 138 and in particular, paragraphs 21 and 23 thereof.

4] Learned counsel also invited our attention to the reported judgment of the Supreme Court in the matter of ***Somesh Tiwari vs. Union of India, 2009 (2) SCC 592*** and in particular, paragraphs 19 and 20 thereof.

5] He submits that the impugned judgment and order passed by the Maharashtra Administrative Tribunal is without perusal of the record. Therefore, relying upon the pleadings in the petition annexures thereto, judgments referred by him , learned counsel for petitioner submits that the petition deserves to be allowed.

6] On the other hand, learned counsel for the respondent No.2 submits that the transfer order was on administrative ground, in the same city, maintaining the same Headquarter and, therefore, this Court may not interfere in the impugned judgment and order of the Maharashtra Administrative Tribunal.

7] Learned AGP invited our attention to the affidavit in reply filed on behalf of respondent No.1 and in particular, para. 8 thereof, and submitted that the petitioner was transferred as per the provisions of the Transfers Act, after obtaining approval of the Honourable Chief Minister and, therefore, there is no irregularity in the order dated 16th August, 2014. He also invited our attention to para.17 of the impugned judgment and submitted that the MAT has observed that the applicant has not alleged any ill will or malafides against him on the part of the respondents. Therefore, relying upon the reasons recorded by the Tribunal and the fact that the transfer was within same city, maintaining same Headquarter and on administrative grounds, the learned AGP submitted that the petition is devoid of merit and same may be dismissed.

8] We have heard the respective counsel, perused the pleadings, annexures thereto and the impugned judgment and order passed by the Maharashtra Administrative Tribunal. Upon perusal of the order of transfer, we find that the case of the petitioner is not singled out, as there are 11 Officers other than the petitioner, who are also transferred. As rightly contended by learned AGP that the transfer was after obtaining approval of the Honourable Chief Minister and, therefore, there is no contravention of the Transfers Act and rules made thereunder.

9] So far as judgment in the matter of *Pradeepkumar (cited supra)* is concerned, the transfer of the petitioner therein was a single transfer. However, in the present case, alongwith the petitioner 11 other officers are also transferred. Transfer of the petitioner is in the same city, maintaining the same Headquarters and that too, after obtaining approval of the Honourable Chief Minister. There are no allegations of malafides as well. Therefore, in our considered view, the reasons assigned by the Tribunal while rejecting the original application, appear to be in consonance with the material placed on record.

10] No case for interference in the impugned judgment so also in transfer order is made out. Hence, the writ petition is dismissed.

11] At this stage, learned counsel for the petitioner prayed for continuation of the interim relief which was in operation during the pendency of the petition for further 4 weeks. Said prayer is vehemently opposed by learned AGP and the learned counsel for respondent No.2.

12] We do not think, this is a case wherein we should accede to the prayer made by learned counsel for petitioner to extend the interim order for further 4 week's period. Hence, the prayer is rejected.

[A.M. BADAR, J]

[S.S. SHINDE, J]

grt/-