

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 819 OF 2015.

Smt. Sangita Yakubkhan Pathan .vs. The State of Maharashtra & others

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
--	---------------------------

Mr. H.N. Potbhare, Advocate for petitioner,
Mr. A.M. Deshpande, A.G.P. for respondent nos. 1, 2 & 4,
Mrs. Neeta Jog, Advocate for respondent nos. 3, 5 & 6.

CORAM : B.P. DHARMADHIKARI & S.B. SHUKRE, JJ.

DATED : MAY 5, 2015.

The order of Divisional Commissioner, Nagpur rejecting appeal of petitioner challenging transfer order dated 21.6.2014 is questioned before this Court. Said order of Divisional Commissioner is dated 19.1.2015.

We have heard Mr. H.N. Potbhare, learned Advocate for petitioner, Mr. A.M. Deshpande, learned A.G.P. for respondent nos. 1, 2 & 4 and Mrs. Neeta Jog, Advocate for respondent nos. 3, 5 & 6.

Mr. H.N. Potbhare, learned Advocate for petitioner, submits that as per relevant policy decision dated 15.5.2014, a person who completes 53 years of age on 31st May of the year in which transfer is being effected, is exempt from transfer. He points out that the petitioner is born on 10.6.1961 and thus was short of 53 years only by ten days. According to him, going by the spirit of said policy decision, as the petitioner had already crossed 53 years of her age when she received transfer order, the order must be quashed and set aside.

The learned A.G.P. as also Mrs. Jog submit that a particular date has been selected and that selection is not assailed before this Court as arbitrary. The age also is indicated by pointing out year of transfer. As the petitioner did not fall within said stipulation as contained in Clause 3(h) of the policy decision dated 15.5.2014, she is not exempt from transfer.

Having heard respective Counsel, we find that the controversy is rightly appreciated by the Appellate Authority, i.e. respondent no.2. The petitioner has not assailed the wisdom of policy framers in selecting date as 31st May. There is also no challenge to selection of age. As such, fact that the petitioner did not complete 53 years of her age by 31.5.2014 is itself decisive.

No case is made out. Petition is rejected. No costs.

Judge

Judge

J.