

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2490/2014

(VASANT CHINDHBAJI DETHE **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Ms K.K. Pathak and Shri S.A. Pathak, counsel for the petitioner.
 Shri A.S. Fulzele, A.G.P. for the R-1 & 6.
 Shri S.G. Jagtap, counsel for the R-4 & 5.

CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.

DATE : JUNE 17, 2015.

By this petition, the petitioner challenges the order of the Maharashtra Administrative Tribunal dismissing the original application filed by the petitioner and upholding the order of the respondent nos.4 and 5 transferring the petitioner from Ambadi in Bhandara District to Gadchiroli by the transfer order dated 31.05.2013.

The petitioner had filed an original application before the Tribunal challenging the transfer order dated 31.05.2013. According to the petitioner, though the transfer order was passed on 31.05.2013, the same was not given effect for a period of more than four months and suddenly in the midst of the session, the petitioner was asked to join at Gadchiroli. According to the petitioner, the petitioner could not have been transferred to Gadchiroli which is a Naxalite area as the petitioner had worked for more than eight years in the Naxalite area. The petitioner had stated that certain persons who had worked for lesser period in the Naxalite area were not transferred, whereas, the petitioner was transferred to the Naxalite area. It is stated that certain Government Resolutions were not adhered to by the respondent nos.4 and 5 before transferring the petitioner, who was on the

verge of his retirement. It is stated that after the remand of the matter by this Court to the Tribunal, the Tribunal failed to consider the relevant Government Resolutions including the Government Resolution dated 10.12.2012 by which it was provided that the employees who are on the verge of retirement should not be normally transferred at the fag end of the service. It is stated that the Maharashtra Administrative Tribunal, however, did not consider the relevant Government Resolution dated 10.12.2012. According to the petitioner, the petitioner is retiring in February-2016 and is literally on the verge of retirement. It is stated that the petitioner has not joined at Gadchiroli and is still in Bhandara district in view of the interim orders passed by the Tribunal and this Court.

On hearing the learned counsel for the parties and on a perusal of the order of the Tribunal, it appears that several relevant Government Resolutions have not been considered by the Tribunal while dismissing the original application filed by the petitioner. It was necessary for the Tribunal to consider the relevant resolutions by which the authorities were asked not to transfer the employees when they were on the verge of retirement, as far as possible. Also, the petitioner had worked for more than eight years in a Naxalite area and, hence, he could not have been chosen for transfer to a Naxalite area, when he had worked in a Naxalite area for long. Though normally, we would have partly allowed the writ petition and remanded the matter to the Maharashtra Administrative Tribunal for reconsideration of the original application in accordance with law as certain relevant Government Resolutions were not considered by the Maharashtra Administrative Tribunal, we would not like to take such course as the petitioner is due to retire in February-2016 and the transfer order has not been implemented for nearly two years in view of the interim orders of this court. It would not be fruitful to remand the matter at this stage.

Hence, on a consideration of the Government Resolutions, specially the Government Resolution dated 10.12.2012 and also the fact that the petitioner would retire in February-2016, we dispose of the writ petition with a direction to the respondent nos.2 to 5 not to give effect to the impugned transfer order and retain the petitioner in Bhandara district till the date of his superannuation.

Order accordingly. No costs.

JUDGE

JUDGE

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