

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

WRIT PETITION NO.3627/2016

Shri Ghanshyam s/o Ganpatrao Nandanwar

...Versus...

State of Maharashtra, Through its Principal Secretary, Public Works Department,
Mantralaya, Mumbai – 400032 and others

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

Court's or Judge's orders

Shri Thengre, Advocate for petitioner
Shri A.M. Balpande, AGP for respondent nos.1 and 2

CORAM : SMT. VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : 29.06.2016

By this writ petition, the petitioner challenges the order of the Maharashtra Administrative Tribunal, Nagpur, dated 8.6.2016 allowing the original application filed by the respondent no.3 and directing the respondent nos.1 and 2 to grant an alternate posting to the petitioner herein, as an Executive Engineer.

The respondent no.3 was posted at Gondia as an Executive Engineer from 19.5.2015. On 14.1.2016, the respondent nos.1 and 2 issued an order promoting the petitioner herein as Executive Engineer and posting him at Gondia. In pursuance of the order, dated 14.1.2016, the respondent no.3 was relieved from her posting at Gondia, though there was no order of transferring the respondent no.3 from Gondia. Since the

respondent no.3 was wrongfully relieved, she had challenged the action on the part of the respondent nos.1 and 2 before the Maharashtra Administrative Tribunal in the original application. The original application filed by the respondent no.3 was allowed and the order, dated 14.1.2016, posting the petitioner at Gondia was quashed and set aside. By the impugned order, the respondent nos.1 and 2 were directed to grant an alternate posting to the petitioner. The said order is impugned in the instant petition.

On hearing the learned Counsel for the parties and on a perusal of the impugned order, it appears that there is no scope for interference with the impugned order, in exercise of the writ jurisdiction. The respondent no.3 was posted at Gondia as an Executive Engineer from 19.5.2015. On 14.1.2016, the respondent nos.1 and 2 posted the petitioner at Gondia on promotion. With a view to accommodate the petitioner at Gondia, the respondent no.3 was relieved from the post. The said exercise was done, though there was no order transferring the respondent no.3 from Gondia to elsewhere. With a view to accommodate the petitioner, an order posting the petitioner at Gondia was passed on 14.1.2016, without simultaneously passing an order transferring the respondent no.3 out of Gondia. The Tribunal, has therefore, rightly held that in the absence of any transfer of the respondent no.3, out of Gondia, she could not have been relieved merely with a view to implement the order, dated 14.1.2016 and accommodate the petitioner at Gondia. The Tribunal, has therefore, rightly quashed and set aside the order, dated 14.1.2016, posting the petitioner at Gondia and has further rightly

directed the respondent nos.1 and 2 to consider posting the petitioner as an Executive Engineer in some other place.

Since the order of the Tribunal is just and proper, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

Wadkar