

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 4841 OF 2019

WITH

CIVIL APPLICATION NO. 6312 OPF 2019

IN

WRIT PETITION NO. 4841 OF 2019

Mr. Ranjitsing s/o Laxmansing ... **Petitioner**
Rajput, Age 42 years, Occu:
Service, R/o Plot No.13,
Jogeshwari, Bhivasan Nagar,
Deopur, Dhule, District Dhule

VERSUS

- 1 The State of Maharashtra
Through Its Secretary,
General Administration Department
Mantralaya, Mumbai 400 032
- 2 The Secretary and Director
General, Information and Public
Relation, Mantralaya, Mumbai
- 3 The Director (Administration), ... **Respondents**
Information and Public Relation
Mantralaya, Mumbai

Mr. Pralhad D. Bachate, Advocate for the applicant.
Mr. S.P. Tiwari, AGP for the Respondents State.

CORAM : A. M. DHAVALÉ, J.

(Vacation Court)

DATE : 24th May, 2019

ORDER:

1. The petitioner, who is serving as District Information Officer at Dhule, seeks direction to consider his claim for transfer to Nashik or Jalgaon in view of Government Circulars dated 11.07.2000 and 06.08.2002.

2. Mr. Bachate, the learned Advocate for the petitioner submits that the petitioner has worked for three years in Nandurbar and three years in Dhule with additional charge of Nandurbar. Nandurbar is a tribal area and as per Government Circular dated 11.07.2000, the petitioner is entitled for posting of his choice after serving in tribal area for six years. He also submits that father of the petitioner is suffering from cancer and if he is transferred at a place away from Nashik, he will not be able to attend his father during his last days.

3. The learned counsel has moved the civil application on the ground that now there is vacancy at Nashik and he will be considered for posting at Nashik and once the vacancy is filled up, it will not be possible to post him at Nashik. By order dated 30.05.2018, the petitioner was transferred from Dhule to Nanded. Thereafter, he had filed Writ Petition No. 1207/2019 and this Court had issued direction to consider all these facts. Besides, there were other directions in writ petition No. 12949/2018.

4. Learned APP submits that the petitioner can

raise his claim before the Regular Court. Mr. Bachate, the learned Advocate for the petitioner submits that general transfers can be effected upto 31st May and thereafter chances of getting the petitioner transferred at Nashik will be weak.

5. This Court, in writ petition No.1207/2019, by order dated 18.01.2019, made following observations:

"4. The petitioner, in view of the Government Circular dated 11th July, 2000, submitted representation to respondent No.2 on 31st December, 2018. Learned counsel for the petitioner then invited our attention to the documents placed on record, namely the certificate issued by the private medical practitioner as well as discharge card issued under the seal and signature of the Civil Surgeon, General Hospital Dhule to submit that father of the petitioner Shri Laxmansing Budhesing Rajput, aged 74 years is suffering from Cancer of Colon with CVA (Cerebrovascular disease). The petitioner is desirous of providing better medical treatment to his father and this facility is available in Nashik District, Nandurbar District and Jalgaon and these places are near to District Dhule. As such, the petitioner made a request for his

transfer giving his preferences to these places."

6. There were further directions in Writ Petition No.12949/2019 dated 04.02.2019 as follows:

"4. The respondents may consider the application of the petitioner as directed by this court under order dated 28.01.2019 in Writ Petition No.1207 of 2019 on its own merits without being influenced by the finding given by the Tribunal in the present matter."

7. Considering the fact that there is vacancy at Nashik which can be filled up before 31st May and considering the petitioner's case that his father is suffering from cancer, the respondents are directed to take into consideration the facts pleaded by the petitioner, verify the same and considering the directions issued by this Court in two writ petitions referred herein above, take appropriate decision with regard to the claim of the petitioner for transfer at Nashik in this general transfer.

8. Though normally general transfers are effected in the month of April or May after a period of posting of three years, Rule 4(2) and Rule 4(5) of the read as

follows:

4(2) The Competent authority shall prepare every year in the month of January, a list of Government servants due for transfer, in the month of April and May in the year.

4(5) Notwithstanding anything contained in section 3 of this section, the competent authority may, in special cases after recording reasons in writing and with the prior approval of the immediately superior, Transferring authority mentioned in the table of section 6, transfer a Government servant before completion of his tenure of post."

Thus, there is provision of effecting transfers even before completion of a period of three years or in midway. The competent authority shall take into consideration these provisions.

9. Writ petition is accordingly disposed of. No costs.

10. Civil application also stands disposed of.

(A. M. DHAVALA, J.)

JPC