

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

930 WRIT PETITION NO.9819 OF 2019
WITH CA/13552/2019 IN WP/9819/2019

Sunil Pandurang Pawar,
Age 40 yrs., Occ. Service,
R/o Laxminarayan nagar,
Plot No.6, Nandurbar.

... Petitioner.

... **Versus** ...

- 1 The State of Maharashtra,
Through its Secretary,
Agricultural Department,
Mantralaya, Mumbai – 32.
- 2 The Divisional Superintendent of
Agricultural, Nashik Region,
Nashik/Chairman of Civil Services
Committee-2, Nashik Region,
Nashik.
- 3 The Joint Director of Agricultural,
Nashik Division, Nashik,
Old Commissioner Office,
(Ashwin Barrack), Nashik.
- 4 Sandip Dadarao Chavan,
Age : major, Occ. Service,
R/o District Superintending Officer,
Nandurbar Taluka Seeds Farm,
Dhule Road, Nandurbar – 425 412.

... Respondents.

...

Mr. A.N. Nagargoje, Advocate for the petitioner

Mr. G.O. Wattamwar, AGP for respondents No.1 to 3

Respondent No.4 – served – absent

...

**CORAM : SUNIL P. DESHMUKH &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 03rd DECEMBER, 2019

ORAL JUDGMENT : (PER – SUNIL P. DESHMUKH, J.)

1 Rule. Rule made returnable forthwith, heard finally with the
consent of the parties.

2 Respondent No. 4 Mr. Sandip Dadarao Chavan has not caused
appearance on his behalf though he was served twice, once by private service
and also through court motion.

3 It is the case of the petitioner that while he had completed over
six years' tenure in difficult area assigned, he was due for transfer to the
place of his choice. The State Government, it appears, has offered a facility,
whereunder employees, to be transferred, may give a choice and preference
for the places where they wish to be transferred after completing tenure in
difficult area. There is no dispute on that wife of petitioner working in Zilla
Parishad at place closer to Shamsherpur and on that petitioner's brother is
mentally unwell. Petitioner had given for transfer preference to the place
known as Samsherpur ahead of his preference at Sr.No.9 which was Anarad.
Despite vacancy at Samsherpur, the petitioner had been transferred to

Anarad. Respondent No. 4 Sandip Chavan had been transferred to Shamsherpur. Mr. Sandip Chavan had not joined said post at Shamsherpur. The post at Samsherpur is still lying vacant. It is learnt that Mr. Chavan had not given choice of Shamsherpur in his preferences.

4 In the challenge before Maharashtra Administrative Tribunal in Original Application No.410 of 2008 by petitioner, respondents have justified transfer of petitioner at Anarad, stating that it is closer to his native place and, as such, it is convenient and is the place of his choice in the preferences given. In the scenario, the Tribunal has considered that since the petitioner has given at serial No.9 Anarad in the order of preferences, there is no illegality committed in passing impugned order and that respondents appear to have properly followed Government Resolution dated 09-04-2018.

5 Mr. Nagargoje, learned advocate appearing for the petitioner submits that before the Tribunal and this Court, placement of Mr. Chavan is being justified stating that because of the administrative exigency and heavy workload and due to certain family difficulties he had requested to give extension to join at transferred place of order. However, Mr. Chavan has not joined at the transferred place for over a year nor has he responded to the notice of this Court. Learned counsel Mr. Nagargoje further submits that it is learnt that Mr. Chavan is not interested in joining at Shamsherpur. He

submits, it does appear that some reluctance is being exhibited by authorities in placing the petitioner at Shamsheerpur, despite there being vacancy for over a year and Mr. Chavan not willing to join there.

6 Justification of transfer of petitioner at another place is on the ground that it is closer to native place of the petitioner. It is not in dispute that wife of petitioner is working in Zilla Parishad at a place closer to Shamsheerpur. It is also referred that his mother is 75 years old. He has also to look after brother, who is stated to be not mentally well. In the circumstances, the petitioner had given preference to transfer at Shamsheerpur, that being a place convenient to his family members in many respects.

7 On perusal of paragraph No.15 of Tribunal's order, it appears that the Tribunal had been oblivious of the convenience of family members, wife being serving at a place closer to Shamsheerpur. It would be convenient for all the family members. Since the post is unlikely to be occupied by Mr. Chavan, going by his conduct in the proceedings, we deem it appropriate that authorities may reconsider the request of the petitioner seeking transfer at Shamsheerpur and pass appropriate order.

8 In view of above, the authorities concerned to reconsider the transfer order of petitioner at Anarad and consider his request for transfer to

Shamsherpur.

9 Writ petition allowed to aforesaid extent.

10 This exercise may be carried out within a period of four weeks
from date of receipt of writ of this order.

11 Rule is made absolute in above terms.

12 In view of aforesaid, Civil Application is disposed of.

(Smt. Vibha Kankanwadi)
JUDGE

(Sunil P. Deshmukh)
JUDGE

agd