

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

WRIT PETITION NO. 5461 OF 2021

Naina W/o Pravin Mahatwane,
..VS..

The Secretary, State of Maharashtra, Urban Development Department, Mumbai and
Ors.,

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

Court's or Judge's orders

Shri Piyush S. Kadam, Advocate for petitioner.
Shri K. L. Dharmadhikari, A.G.P. for respondent Nos.1 to 3.

CORAM : SUNIL B. SHUKRE AND
ANIL L. PANSARE, JJ.

DATED : 22.12.2021

1. Heard Shri Kadam, learned counsel for the petitioner and Shri Dharmadhikari, learned A.G.P. for respondent Nos.1 to 3.

2. The petitioner is questioning her transfer from Tax Department to Health Department, Municipal Council, Wardha. According to learned counsel for the petitioner, the petitioner being senior to respondent No.5, the petitioner could not have been transferred from Tax Department to Health Department by demoting her from the post of 'Tax Collector' to the post of 'Safai Karmachari'. In support, learned counsel places reliance upon the order dated 09.03.2021 which is stated in the petition to be a "promotional transfer order".

3. On going through the order dated 09.03.2021, described by the petitioner to be a “promotional transfer order”, we find that it is only a posting order and not an order of promotion-cum-transfer. It clearly says that the petitioner along with other persons named therein, are the ‘Safai Karmacharies’ and are being transferred on an administrative ground and in public interest to the Tax Department. This order dated 09.03.2021 nowhere acknowledges that the petitioner was promoted to the post of “Tax Collector” or any other post in Tax Department. Rather, it emphasizes upon the fact that the petitioner is a ‘Safai Karmachari’. This being the position, we are of view that the petitioner cannot question her transfer as ‘Safai Karmachari’ to Health Department as per the impugned order dated 18.08.2021. For the same reason, we find that the petitioner cannot challenge the transfer of respondent No.5 to the tax department as, such transfer of respondent No.5 as per the order dated 20.08.2021 is also not on promotion but only in the same capacity as ‘Safai Karmachari’.

4. Learned counsel for the petitioner is also relying upon one communication dated 20.10.2021, which is a reply given to the petitioner to the query of the petitioner under Right to Information Act, 2005. By this reply, the Public Information Officer of Municipal Council, Wardha has informed the petitioner that the one other employee and respondent No.5 were promoted to the post of Junior Clerk from the post of ‘Safai Karmachari’. This reply, does not contain any admission by the Municipal Council,

Wardha that the petitioner was promoted to the post of junior clerk. The admission is in respect of one person named as Chandan Mahatwane.

5. Thus, we find that there is no substance in this petition and it deserves to be dismissed.

6. Learned counsel for the petitioner, at this stage seeks direction of this Court to respondent No.3 to decide the representation of the petitioner forwarded to him by respondent No.2 vide his letter dated 08.10.2021. This representation has been recently forwarded to the respondent No.3 and we are hopeful that respondent No.3 will decide the same, in accordance with law, as expeditiously as possible.

7. In the result, the petition stands **dismissed**. No costs.

JUDGE

JUDGE

Kirtak