

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6432 OF 2022

ANSARI MOHAMMED ABDUL JAWAID ABDUL HAMID
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY
AND OTHERS

Mr.A.R.Tapse, Advocate for the petitioner.
Mr.S.K.Tambe, AGP for the State.

(CORAM : RAVINDRA V. GHUGE AND
ARUN R. PEDNEKER, JJ.)

DATE : AUGUST 29, 2022

PER COURT :

1. The petitioner has put forth prayer clause 'B' as under :-

"B. By issuing writ of mandamus or any other appropriate writ like nature, the respondents authorities may please be directed to give exemption to the petitioner from the transfer process in view of close No. 1.8.19 and 3.2.1 of the Government Resolution dated 07.04.2021 issued by the respondent No.1 in the interest of justice."

2. We have perused clause 1.8.19 and 3.2.1 of the Government Resolution dated 07.04.2021. We find that the said Government Resolution permits an employee to make an application for seeking

exemption from transfer in view of the employee or his spouse suffering from a grave and serious illness. Below clause 1.8, the illnesses mentioned are - paralysis, being paraplegic, having undergone heart surgery, having only one kidney from birth or requiring kidney transplantation, liver transplant, cancer, illness affecting the brain or thalassaemia. Clause 1.8.19 pertains to a disease affecting the brain.

3. The learned Advocate for the petitioner submits that the petitioner's wife is suffering from Migraine. A certificate from Pacific Hospital, Cidco, Aurangabad is placed before us, which would indicate that the petitioner's wife visited the clinic on 09.03.2022 and the certificate indicates that she is suffering from Acute Migraine Headache with Lumbar Spondylosis. Lumbar Spondylosis and Migraine are not enlisted in the list of ailments, by virtue of which an employee could seek exemption from transfer. So also, Migraine-Headache is not a disease by which the brain is said to be suffering from a serious medical condition.

4. In view of the above, we do not find that the case of the petitioner can be considered under the said Govt. Resolution.

5. The petition is, therefore, dismissed.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)