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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.9442 OF 2021

**RATNMALA KASHINATH SARPE
VERSUS
THE STATE OF MAHARASHTRA, THR THE PRINCIPAL
SECRETARY AND OTHERS**

...

Mr S. B. Solanke, Advocate for petitioner;
Mr P. G. Borade, A.G.P. for respondent Nos.1 & 2
Mr S. B. Pulkundwar, Advocate for respondent Nos.3 & 4

CORAM : SMT. BHARATI DANGRE, J.

DATE : 22nd February, 2022

PER COURT:

1. Heard the learned Counsel for the petitioner, the learned A.G.P. for respondent Nos.1 & 2 and the learned Counsel for respondent Nos.3 & 4.

The grievance of the petitioner is trivial.

She came to be transferred by a transfer order dated 03/06/2016 from a School, Umari(J.), Tq. Hadgaon to Anantwadi, Tq. Mahur, District Nanded. The order issued by the Chief Executive Officer, Zilla Parishad, Nanded, was subjected to challenge in Writ Petition No.7348/2016 and on 9th August, 2016, this Court recorded the statement of the Education Officer as

(2)

contained in the report dated 18/07/2016 to the effect that the petitioner's case was considered during the counselling and respondent No.3 has agreed to consider her request to recall the transfer order dated 03/06/2016 and offered her a posting in Nanded, as per its availability.

On such statement being made, direction was issued to respondent No.3 to give new posting to the petitioner within a period of two weeks.

2. The said order was complied and the posting was given to the petitioner in Zilla Parishad Primary School Pimpalgaon and she was posted on the post of Headmaster which was vacant, by an order issued by the Block Development Officer, Panchayat Samiti, Nanded on 03/12/2016.

In furtherance of the said order, the petitioner resumed her post on 05/12/2016.

3. Now the petitioner makes a grievance, that the period which she had spend waiting the appropriate orders of posting, though this Court directed decision to be taken in two weeks, i.e. from

(3)

01/06/2016 to 04/12/2016, shall be treated as waiting period and appropriate orders be passed.

Accordingly on 18/09/2017, the Education Officer (Primary), Zilla Parishad, Nanded has treated the said period of 212 days as admissible leave.

4. This order was subjected to challenge before the Divisional Commissioner, Aurangabad in an Appeal filed under Sections 13 and 14 of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964. The appeal came to be rejected, by recording that the petitioner in the said period did not resume the posting, since the transfer place was inconvenient to her and therefore, she requested for change and was obliged by the administration. The appeal is therefore dismissed.

5. Being unhappy with the said order, the petitioner has approached this Court.

On perusal of the writ petition and its annexures, it is apparent that when the petitioner was issued with the transfer order, for certain reason, she was reluctant to join posting and approached this Court raising a challenge to the said order.

A statement came to be made before the Court that her request has been considered in counselling and she would be given the available post in Nanded taluka. The transfer order issued to the petitioner in view of the said statement would reveal that she was accommodated against the post of Headmaster, which was lying vacant and it can very well be seen that for accommodating the petitioner, a special arrangement was made and she was allowed to occupy the post of Headmaster and subsequently, was posted in the same school as an Assistant Teacher'. In order to accommodate the petitioner and ease out her difficulties in joining, the positing of her choice, she was extended the relief. However, grievance of the petitioner is the posting was to be given to her within two weeks, but there was delay.

6. The difficulties in administration pose by the Zilla Parishad can be well appreciated and particularly when the transfer orders are to be issued when the academic session has already begun in the month of June 2016.

The respondent Zilla Parishad made every endeavour to abide by it's statement and issued a posting to her in December 2016.

7. In any case, the petitioner did not discharge her duties for the said period and therefore, no fault can be found in treating the said period as admissible leave.

She is neither deprived of continuity of service nor the period is treated as without leave, to cause any financial loss to her.

8. In the wake of the above, the grievance of the petitioner is unsustainable and by upholding the impugned order, the writ petition is dismissed.

(SMT. BHARATI DANGRE, J.)

sjk