

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9889 OF 2019

1. Sangita Hemant Karle
Age – Major, Occupation – Service,
R/o. ZPPS Hadsani, Tq. Mahur,
Dist. Nanded.
2. Archana Harirao Chaudhare
Age – Major, Occupation – Service,
R/o. ZPPS Chaundi, Tq. Mukhed,
Dist. Nanded.
3. Uplanchwar Anuja Chandrakant
Age – Major, Occupation – Service,
R/o. ZPPS Hardaf, Tq. Hadgaon,
Dist. Nanded.
4. Smt. Aparna Pandurang Chate
Age – Major, Occupation – Service,
R/o. ZPPS Balapur, Tq. Dharmabad,
Dist. Nanded.
5. Mise Vaijnath Kalappa
Age – Major, Occupation – Service,
R/o. Zilla Parishad Urdu Primary School
Palaiguda, Tq. Mahur, Dist. Nanded.
6. Jilkarwar Sagar Gangadhar
Age – Major, Occupation – Service,
R/o. ZPPS Shiranjani, Tq. Mahur,
Dist. Nanded.
7. Satish Digambar Jankar,
Age – Major, Occupation – Service,
R/o. ZPPS Bannali, Tq. Dharmabad,

Dist. Nanded.

8. Markhelkar Ramesh Bandudev
Age – Major, Occupation – Service,
R/o. ZPPS Chikhali (Bk.), Tq. Kinwat,
Dist. Nanded.

9. Manisha Namdevrao Narsikar
Age – Major, Occupation – Service,
R/o. ZPHS Jahur, Tq. Mukhed,
Dist. Nanded.

...Petitioners

Versus

1. The State of Maharashtra
Through the Secretary,
Rural Development Department
Mantralaya, Mumbai – 32.
2. The Chief Executive Officer,
Zilla Parishad Nanded.
3. The Education Officer (Primary)
Zilla Parishad, Nanded.

...Respondents

Advocate for Petitioners : Mr. M.S. Deshmukh h/f. Mr. U.L. Momale
AGP for Respondent No. 1 : Ms. R.P. Gour
Advocate for Respondent Nos. 2 & 3 : Mr. S.B. Pulkundwar

WITH
CIVIL APPLICATION NO. 12627 OF 2019

1. Sangita Hemant Karle
Age – Major, Occupation – Service,
R/o. ZPPS Hadsani, Tq. Mahur,
Dist. Nanded.
2. Archana Harirao Chaudhare
Age – Major, Occupation – Service,

R/o. ZPPS Chaundi, Tq. Mukhed,
Dist. Nanded.

3. Uplanchwar Anuja Chandrakant
Age – Major, Occupation – Service,
R/o. ZPPS Hardaf, Tq. Hadgaon,
Dist. Nanded.
4. Smt. Aparna Pandurang Chate
Age – Major, Occupation – Service,
R/o. ZPPS Balapur, Tq. Dharmabad,
Dist. Nanded.
5. Mise Vaijnath Kalappa
Age – Major, Occupation – Service,
R/o. Zilla Parishad Urdu Primary School
Palaiguda, Tq. Mahur, Dist. Nanded.
6. Jilkarwar Sagar Gangadhar
Age – Major, Occupation – Service,
R/o. ZPPS Shiranjani, Tq. Mahur,
Dist. Nanded.
7. Satish Digambar Jankar,
Age – Major, Occupation – Service,
R/o. ZPPS Bannali, Tq. Dharmabad,
Dist. Nanded.
8. Markhelkar Ramesh Bandudev
Age – Major, Occupation – Service,
R/o. ZPPS Chikhali (Bk.), Tq. Kinwat,
Dist. Nanded.
9. Manisha Namdevrao Narsikar
Age – Major, Occupation – Service,
R/o. ZPHS Jahur, Tq. Mukhed,
Dist. Nanded.

...Applicants

Versus

1. The State of Maharashtra
Through the Secretary,
Rural Development Department
Mantralaya, Mumbai – 32.
2. The Chief Executive Officer,
Zilla Parishad Nanded.
3. The Education Officer (Primary)
Zilla Parishad, Nanded.
4. Vijaymala Bhagwanrao Burse,
Age – Major, Occupation – Service,
R/o. ZPCPS Pimpalgaon Mahadev,
Tq. Ardhapur, Dist. Nanded.
5. Kondiba Suryakant Jaibhay
Age – Major, Occupation – Service,
R/o. Zilla Parishad Primary Shcool,
Naleshwar, Tq. & Dist. Nanded.
6. Venkat Kishanrao Ramold
Age – Major, Occupation – Service,
R/o. ZPPS Shelgaon Chatri,
Tq. Naigaon, Dist. Nanded.
7. Shankar Manohar Baswade,
Age – Major, Occupation – Service,
R/o. ZPPS Piparwadi, Tq. Loha,
Dist. Nanded.
8. Umakant Digambarrao Kajale
Age – Major, Occupation – Service,
R/o. ZPPS Lakkha, Tq. Degloor,
Dist. Nanded.

9. Bhausahab Devidas Wadje,
Age – Major, Occupation – Service,
R/o. ZPPS Talbid, Tq. Naigaon,
Dist. Nanded.
10. Khushal Marotiram Kagne
Age – Major, Occupation – Service,
R/o. ZPPS Shankhteerth,
Tq. Mukhed, Dist. Nanded.
11. Savita Sudam Patil
Age – Major, Occupation – Service,
R/o. ZPPS Brahmanwada,
Tq. & Dist. Nanded.
12. Lalita Madhavrao Dongare
Age – Major, Occupation – Service,
R/o. Zilla Parishad Kendriya Prathik Shala,
Kinala, Tq. Biloli, Dist. Nanded.

...Respondents

Advocate for Petitioners : Mr. M.S. Deshmukh h/f. Mr. U.L. Momale
AGP for Respondent No. 1 : Ms. R.P. Gour
Advocate for Respondent Nos. 2 & 3 : Mr. S.B. Pulkundwar
Advocate for Respondent Nos. 4 to 12 : Mr. S.S. Kulkarni
h/f. Mrs. R.S. Kulkarni

**CORAM : C.V. BHADANG &
SANDIPKUMAR C. MORE, JJ.**

DATE : 22 JUNE, 2022.

ORAL JUDGMENT [PER : C.V. BHADANG, J.] :-

This petition is taken up for final disposal by consent of the parties.

2. The petitioners who were working, as Assistant Teachers, with Zilla Parishad, Nanded, are seeking a direction, for implementation of the order passed by the Additional Commissioner at Aurangabad, dated 29 June, 2019 and the order of learned Deputy Charity Commissioner at Aurangabad, dated 26 April, 2019. The dispute pertains to the transfer and postings of the petitioners.

3. At the outset, it may be mentioned that petitioner No. 1– Sangita Karle and petitioner No. 7 – Satish Jankar are stated to have been promoted during the pendency of this petition. Learned counsel for the petitioners, therefore, on instructions, states that the petition is not pressed in so far as petitioner Nos. 1 and 7 are concerned. Thus, the challenge in the petition, only survives in so far as petitioner Nos. 2 to 6 and 8 and 9 are concerned.

4. It so happened that the petitioners were transferred in the year 2018 on the ground of couple convenience. The Chief Executive Officer of Zilla Parishad found that while seeking such transfer, the petitioners had given information which was not correct and false to their own knowledge. In these circumstances, the Chief Executive Officer passed an order thereby, permanently, debarring the petitioners, from one annual increment and also their transfer postings were changed.

5. The petitioners challenged the same before the Divisional Commissioner and the Divisional Commissioner by separate orders passed in May and June, 2019 allowed the appeals filed by the

petitioners and the punishment of imposition of permanently debarring the petitioners from one annual increment was set aside. However, in the meanwhile, the petitioners joined their new postings and are working at their respective places of postings.

6. We have heard the learned counsel for the petitioners and the learned counsel for the respondents.

7. It is submitted by the learned counsel for the petitioners that as the Divisional Commissioner has found that there was no misrepresentation at the time of seeking transfer on the basis of couple convenience and the punishment of permanently debarring of one annual increment was set aside, respondent No. 2 – Chief Executive Officer is required to re-post the petitioners to their original places of postings. In the alternative, it is submitted that the Chief Executive Officer can consider the case of the petitioners, in the general transfers as request transfer this year as the petitioners have already completed three years at the present places of postings.

8. Learned counsel for the respondent – Zilla Parishad, placing reliance on the Government Resolution dated 07 April, 2021 has submitted that now the lock in period is five years and not three years and, therefore, the petitioners cannot be considered as due for transfer in the general transfer this year. It is also submitted that now the entire transfer procedure has been made online and, therefore, no manual intervention is possible.

9. Learned counsel for the petitioner has brought to our notice a communication dated 10 June, 2022 from the Deputy Secretary of the Maharashtra Government, addressed to all the Chief Executive Officers of the Zilla Parishad in the State. In particular, it is pointed out that as per clause 4 of the said letter the Chief Executive Officer is required to process the transfers on offline basis in the interest of the employees as per the order of the competent Court. It is pointed out that in the later part of paragraph No. 4, it is also provided that the concerned incumbent can be allowed to take part in the transfer process in the event there are orders of the competent Court.

10. We have carefully considered the circumstances and the submissions made.

11. We find that the Divisional Commissioner and Appellate Authority have found that there was no misrepresentation made by the petitioners at the time of seeking transfers in the year 2018 on the basis of couple convenience. It also transpired during the course of the hearing that the Review Application filed by the Zilla Parishad, challenging the order of the Divisional Commissioner has not been entertained and as such, the said order has attained finally. If that be so, we find that the consequences arising out of the penal action, on the basis of the alleged misrepresentation in the year 2018 needs to be rectified. In fact the part of the punishment imposed about the permanent debarring of the annual increment has already been set aside by the Commissioner.

12. We also note that in the meantime the petitioners have joined at the transferred posts and have completed three years at the said place and the transfer guidelines / policy of the year 2017, which was operating at the time of the 2018 transfers, prescribes lock in period of three years. In such circumstances, we find it appropriate that the Zilla Parishad considers the case of the petitioners for request transfer of the petitioners during the general transfers this year, and in the light of the fact that the earlier punishment imposed has been set aside by the Appellate Authority as the petitioners were not found to have sought the transfer on the basis of misrepresentation or otherwise.

13. Rule is made absolute in the aforesaid terms.

14. Civil Application stands disposed of.

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.