

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

Writ Petition No. 2136/2022

Shobha d/o Manohar Mhaske

...Petitioner

Versus

The State of Maharashtra and ors.

...Respondents

Mr. M.R. Deshmukh, Advocate for the Petitioner

Ms. Shamsi Haider, Assistant Government Pleader for the Respondents

**CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.**

DATED : 22 APRIL 2022

P.C.:

Heard learned Counsel for the parties.

2. The Petitioner has challenged the order passed by the Maharashtra Administrative Tribunal, Nagpur (for short the “Tribunal”) rejecting the Original Application No. 723/2020 by order dated 11 March 2022 filed by the Petitioner.

3. The Petitioner had challenged the order of transfer of the Petitioner dated 30 July 2020 from Bramhapuri, Taluka Mehakar to Taluka Lonar both in Buldhana District. The case of the Petitioner before the Tribunal was that the Petitioner joined as a Talathi at Bramhapuri Saja on 23 July 2018 and the Petitioner was transferred on 30 July 2020 before the completion of normal tenure which the Petitioner had relied under

Section 4(5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short the “Act of 2005”) which ground was negated by the Tribunal. The learned Counsel for the Petitioner reiterated the submissions made before the Tribunal namely that the Petitioner’s transfer is in breach of Section 4(5) of the Act of 2005 and allegations that the Petitioner was not performing Petitioner’s duties is not correct as various villagers have given representation in support of the Petitioner. The Tribunal has relied upon the decision of the Supreme Court in the case of *Nagorao Shivaji Chavan Vs. Dr. Sunil*¹ to observe that norms enunciated by the Government in matter of regulating transfers are more in nature of guidelines and they do not create vested rights in favour of the employee. In view thereof, the decision of the Division Bench cited by the Petitioner in the case of *Kishor Shridharrao Mhaske Vs. Maharashtra OBC Finance and Development Corporation, Mumbai and ors.*² cannot be considered. It is not that the Government Servant has vested right to stay in one place for a fixed period. If there are cogent reasons a Government Servant can be transferred even before the period is over.

4. In the present case, the Tribunal has noted the stand of the Respondents that the Petitioner had to be moved in the light of the administrative exigencies that the petitioner was not attending duties and there were complaints. The Petitioner relied upon representations made by the villagers in support of the Petitioner. According to this cause of action is not appropriate, which would indicate that the Petitioner could

1 (2019) 13 SCC 788

2 2013(3) Mh.L.J. 463

be collecting signatures in favour of the Petitioner to be posted at a particular place. We do not find that view taken by the Tribunal cannot be termed as perverse so as to interfere in the writ jurisdiction.

5. Accordingly, the Writ Petition is rejected. No costs.

[ANIL L. PANSARE, J.]

[NITIN JAMDAR, J.]

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