

jvs

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

SALUNKE
JV

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WRIT PETITION NO. 280 OF 2023

Mr. Sandeep Kisan Kanade	}	Petitioner
Versus		
The Union of India and Ors.	}	Respondents

Mr. Vinod Tayade for the petitioner.

Mr. R. R. Shetty with Ms. Smita Thakur for
the respondents.

**CORAM: S. V. GANGAPURWALA, Act.CJ.&
SANDEEP V. MARNE, J.**

DATE: JANUARY 31, 2023

P.C.:

1. The petitioner assails the order passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai (hereinafter referred to as “the Tribunal”). The petitioner had approached the Tribunal challenging the order of transfer. The Tribunal dismissed the original application.

2. The learned advocate for the petitioner strenuously contends that the impugned order of transfer is punitive in nature. The transfer is effectuated only because the petitioner had given a report against a lady as a member of inquiry committee. It is not an administrative transfer. The learned advocate, to substantiate his contention, relies upon a judgment of the Apex Court in **Somesh Tiwari vs. Union of India & Ors.**, reported in (2009) 2 SCC 592 to contend that when the order of transfer is passed in lieu of punishment, the same is liable to be set aside being wholly illegal.

3. The learned advocate for the respondents submits that the petitioner is at Pune since the year 2005. The transfer is an administrative transfer. The transfer is not punitive in nature. The petitioner was also given protection as his son was to appear for board examination.

4. We have considered the submissions advanced by the learned advocates and also gone through the judgment delivered by the Tribunal.

5. It would be observed that the petitioner is at Pune for almost 15 years. The transfer, on the face of it, does not spell out any *mala fides*. We cannot assume malice in law and malice in fact. The powers of judicial review in cases of transfer would be in a narrow compass.

6. The petitioner is not in a position to point out that the transfer is in violation of any rules or regulations in force. The Tribunal has considered the factual matrix in proper manner. In view of that, no case for interference is made out. The writ petition is dismissed. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)