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wp8574o24 grp MAT

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

WRIT PETITION NO.8574 OF 2024

- 1) Prashant Dadabhau Sonawane
Age: 38 Years, Occu: Service
as Awwal Karkoon, Tahsil Office,
Parner, Tq. Parner,
Dist: Ahmednagar
Mob: 9422758452
- 2) Pankaj Bhikaji Jagdale
Age: 42 Years, Occu: Service
as Circle Officer, Takli Dhokeshwar,
Tq. Parner,
Dist: Ahmednagar Mob: 7588168993
- 3) Amol Balasaheb Mandlik
Age: 35 Years, Occu: Service
as Circle Officer, Supa, Tq. Parner,
Dist: Ahmednagar
Mob: 8956120772
- 4) Swapnil Subhash Gore
Age: 35 Years, Occu: Service
as Talathi, Sajja Parner, Tq. Parner,
Dist: Ahmednagar
Mob: 8087030403
- 5) Macchindra Ramdas Unde
Age: 39 Years, Occu: Service
as Talathi, Sajja Takali Dhokeshwar,
Tq. Parner, Dist: Ahmednagar
Mob: 9921816336

...PETITIONERS

-VERSUS-

- 1) The State of Maharashtra
Through Principal Secretary,

Revenue Department, Mantralaya,
Mumbai

- 2) The District Collector
New Administrative Building
Ahmednagar, Tal & Dist. Ahmednagar
- 3) The Tahasildar
Parner Tq. Parner,
Dist: Ahmednagar

...RESPONDENTS

AND
WRIT PETITION NO.8575 OF 2024

Santosh Bhagwan Gholave,
Age : 47 years, Occu : Service as Talathi,
Sajja Dashmigavhan, Tahasil Office, Nagar,
Dist.Ahmednagar.

...PETITIONER

-VERSUS-

1. The State of Maharashtra
Through its Principal Secretary,
Revenue Department, Mantralaya,
Mumbai-32.
2. The District Collector,
Ahmednagar, Tal & Dist. Ahmednagar.
3. The Tahasildar, Ahmednagar,
Tq. & Dist.Ahmednagar.

...RESPONDENTS

AND
WRIT PETITION NO. 8577 OF 2024

- 1] Harishchandra Bhausahab Nangre
Age: 43 Years, Occu: Service as

Talathi, R/o: Sajja Pategaon, Tq. Karjat,
Dist: Ahmednagar
Mob: 7756010203

2] Kalicharan Ankush Makhare
Age: 48 Years, Occu: Service as Talathi,
R/o: Sajja Jalapur, Tq. Karjat,
Dist: Ahmednagar
Mob: 8600228292

3] Mujib Abdulrub Shaikh
Age: 50 Years, Occu: Service as Talathi,
R/o: Sajja Halgaon, Tq. Jamkhed,
Dist: Ahmednagar
Mob: 9223477867

...PETITIONERS

-VERSUS-

1] The State of Maharashtra
Through Principal Secretary,
Revenue Department, Mantralaya, Mumbai

2] The District Collector
New Administrative Building
Ahmednagar, Tal & Dist. Ahmednagar

3] The Tahasildar Karjat
Tq.Karjat, Dist: Ahmednagar

...RESPONDENTS

AND
WRIT PETITION NO.8608 OF 2024

Vaishali Ambadas Sonawane
Age: 44 Years, Occu: Service as
Circle Officer, R/o: Tahsil Office,
Rahuri, Tq. Rahuri,
Dist: Ahmednagar Mob: 9552965669

...PETITIONER

-VERSUS-

- 1] The State of Maharashtra
Through Principal Secretary,
Revenue Department, Mantralaya, Mumbai.
- 2] The District Collector
New Administrative Building
Ahmednagar, Tal & Dist. Ahmednagar
- 3] The Tahasildar
Rahuri Tq. Rahuri,
Dist: Ahmednagar

...RESPONDENTS

AND

WRIT PETITION NO.8609 OF 2024

Kaveri d/o Navnath Adik,
Age : 44 years, Occu : Service as
Circle Officer, Sajja Puntamba,
Tahsil Office, Rahata, Tq.Rahata,
District Ahmednagar.

...PETITIONER

-VERSUS-

The Collector (Revenue),
New Administrative Building,
Nagar Aurangabad Road,
Ahmednagar, District Ahmednagar.

...RESPONDENTS

...

Shri D.R. Kale, Shri G.A. Gadhe i/by Shri Yogesh H. Lagad and
Shri Avishkar S. Shelke, Advocates for the Petitioners in the
respective petitions.

Shri A.B. Girase, Government Pleader a/w Mrs.V.N. Patil
Jadhav, AGPs for the Respondents/ State.

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**CORAM: RAVINDRA V. GHUGE
&
Y.G. KHOBRAGADE, JJ.**

Reserved on:- 22nd August, 2024

Pronounced on:- 06th September, 2024

JUDGMENT (*Per Ravindra V. Ghuge, J.*) :-

1. Rule. Rule made returnable forthwith and heard finally with the consent of all the learned Advocates.

2. All the Petitioners seek to challenge the common judgment and order dated 09.08.2024, delivered in Original Application Nos. 319, 320, 321, 322, 323, 341 and 342 of 2024, by the learned Division Bench of the Maharashtra Administrative Tribunal, vide which, the Original Applications filed by these Petitioners challenging their transfer orders dated 15.03.2024, have been dismissed.

3. While exercising our Writ Jurisdiction of the Supervisory nature, we need to consider the pleadings and the

contentions of these Petitioners, more so, in view of the grounds set out for challenging the impugned Judgment.

BACKGROUND OF THESE CASES

3. The background of these cases, is as under:-

(A) Writ Petition No.8574/2024 (O.A. No.342/2024)

(i) Mr. Prashant Dadabhai Sonawane completed 11 months in his present posting. He was working as Senior Clerk (Awwal Karkun, in Marathi), dealing with the Sanjay Gandhi Niradhar Yojana at Taluka Parner. He had the additional charge of a Civil Supplies Inspector. It is believed that he did not carry out the inspection of the Fair Price Shops as per the target prescribed by the State Government. Therefore, the Tahsildar submitted a report to the Collector- Respondent No. 1. He was transferred int the Godown Management Gr-2, at Tahsil Office Karjat.

(ii) Pankaj Bhikaji Jagdale, was working as Circle Officer at Takali Dhokeshar Tahsil Office, Parner for 3 years 7 months. While discharging his duties, (i) he did not dispose off the mutation entries cases, within stipulated time, (ii) Slack

supervision of crop cultivation and E-Chawadi work, which resulted into poor performance and (iii) Unsatisfactory work in respect of government recoveries. He was transferred as Awwal Karkoon, Revenue Branch Collector office, Ahmednagar.

(iii) Amol Balasaheb Mandlik, was working as Circle Officer at Supa Tahsil Office, Parner for 2 years 8 months. While discharging his duties, (i) he did not dispose off the mutation entries cases within the stipulated time, (ii) Slack supervision of crop cultivation and E-Chawadi work, which resulted into poor performance and (iii) Unsatisfactory work in respect of Government recoveries. He was transferred as Circle Officer, Sakirwadi, Tahsil Office, Akole.

(iv) Swapnil Subhash Gore, serving as a Talathi Parner, Tahsil Office, Parner for 2 years 6 months. While discharging his duties, (i) he has not taken mutation entries within the stipulated time (ii) shown poor performance in crop cultivation and E-Chawadi work, which resulted into poor performance and (iii) Unsatisfactory work in respect of government recoveries. He was transferred as a Talathi, Khandavi Tahsil Office, Karjat.

(v) Machindra Ramdas Unde, was serving as a Talathi

at Takli Dhokeshwar, Tahsil Office Parner, for 2 years 6 months. While discharging his duties, (i) he has not taken mutation entries within the stipulated time (ii) shown poor performance in crop cultivation and E-Chawadi work, which resulted into poor performance and (iii) Unsatisfactory work in respect of government recoveries. He was transferred as Talathi, Paregaon Kh., Tahsil Office, Sangamner.

(B) Writ Petition No.8575/2024 (OA No. 323 of 2024)

Shri Santosh Bhagwan Gholave, was serving as a Talathi at Dashmigavhan Tahsil Office Ahmednagar for 3 years and 7 months. While discharging duties, (i) he was not attending the office on time and was remaining absent without prior permission, (ii) he was not staying at the headquarters, (iii) his behaviour towards the citizens/applicants who were visiting the office was not proper and (vi) his administrative work was not satisfactorily. He was transferred as a Talathi at Hiwargaon Pathar, Tahsil Office, Sangamner.

(C) Writ Petition No.8577/2024 (OA No. 341 of 2024)

(i) Shri Harishchandra Bhausahab Nagre, was serving as a Talathi at Pategaon Tahsil Office, Karjat for 2 and years 7 months. While discharging duties, (i) he was not efficiently completing the work related with “e-hakk system” and “e-peek pahani system”, which are in public domain, even after giving repeated instructions, (ii) he has not taken any efforts for recovery of the land revenue and his overall work was not satisfactorily and (iii) he was found negligent while completing the assigned work. He was transferred as a Talathi, Chitalwandi, Tahsil Office Pathardi.

(ii) Shri Kalicharan Ankush Makhare, was serving as a Talathi at Jalapur Tahsil Office Karjat for 5 years and 8 months. While discharging duties, (i) he has not efficiently completed the work related with “e-hakk system” and “e-peek pahani system”, which are in public domain, even after giving repeated instructions, (ii) he has not taken any efforts for recovery of the land revenue and his overall work was not satisfactorily and (iii) he was found negligent while completing the assigned work. He was transferred as a Talathi,

Shiursathwadi, Tahsil Office, Pathardi.

(iii) Shri Majib Abdulrub Shaikh, was serving as a Talathi at Halgaon Tahsil Office Jamkhed for 2 years and 7 months. While discharging duties, (i) his conduct was unbecoming and even after repeated instructions there was no progress in his conduct, (ii) he was talking in arrogant language and behaved in rude manner with the people who were visiting his office for official work, (iii) he remained absent in the meetings and without prior approval, proceeded on long leave, (iv) the villagers/farmers of village Halgaon also lodged complaints with the Tahsildar Jamkhed regarding his misconduct and requested unanimously of his transfer and (v) even after repeated instructions he has not improved his conduct and continued to act negligently. He was transferred as a Talalathi, Savargaontal Tahsil Office, Sangamner.

(D) Writ Petition No. 8608/2024 (OA No. 320 of 2024)

Smt. Vaishali Ambadas Sonawane, was serving as Circle Officer at Tahsil Office Rahuri for 3 years 7 months. While discharging duties, (i) she did not efficiently complete the work

related with E- Pherphar System (mutations), E Chawadi and E-Peek (E Crops) Pahani System, which in the public domain. Explanation was called by the Tahsildar Rahuri vide notice dated 24.3.2023, with regard to the irregularities in the E Pherphar system, (ii) she has not taken any efforts for recovery of the land revenue as only 22% recovery of the land revenue was done as on 02.02.2024. In respect of preventing illegal excavation and transportation of sand, she has not performed satisfactorily in Rahuri circle and (iii) due to her unbecoming behavior while discharging official duties, the proposal for departmental enquiry under the provisions of MCS (D & A) Rules, 1979 was sent by Tahsildar Rahuri to the Collector, vide letter dated 11.12.2023. She was transferred as a Circle Officer at Kharwandi Kasar, Tahsil Office Pathardi.

(E) Writ Petition No. 8609/2024 (OA No. 322 of 2024)

Smt. Kaveri Navnath Adik, was serving as a Circle Officer at Puntamba, Tahsil Office Rahata, for 3 years 7 months. While discharging duties, she was (i) remaining absent without prior permission of the Head Office, (ii) not remaining present at

the Headquarters, (iii) not behaving properly with the villagers/applicants visiting the office for their work, (iv) not resolving the doubts/ queries of the villagers properly and therefore, there was dissatisfaction amongst the villagers and (v) even after repeated instructions, she has not improved her conduct and continued to act negligently. She was transferred as a Circle Officer, Adhalgaon, Tahsil Office Shrigonda.

The learned Advocate for the Petitioner (Kaveri Navnath Adik) submits that after the dismissal of the Original Application on 09.08.2024, she has joined at the transferred place at Adhalgaon, Taluka Shrigonda, on 12.08.2024.

8. On 11th February, 2015, the State Government issued a Resolution and framed guidelines for effecting mid-term transfers of the Government Employees or prior to completion of their 3 years tenure under special circumstances. Clauses 7 & 8 of the said G.R., prescribe as under:-

"७. तीन वर्षपेक्षा कमी कालावधी असलेल्या अधिकारी/कर्मचाऱ्याच्या पदावर एखाद्या अधिकारी/कर्मचाऱ्याने मागणी केल्यास वा सदरहू अधिकारी/कर्मचाऱ्याने मा. लोकप्रतिनिधी मार्फत मागणी केल्यास, ३ वर्षपेक्षा कमी कालावधी असलेल्या अधिकारी/कर्मचाऱ्याची

मध्यावधी बदली करण्यात येऊ नये. सदहू ३ वर्षपेक्षा कमी कालावधी असलेल्या अधिकारी/कर्मचाऱ्याची माहे एप्रिल किंवा मे महिन्यातील सामान्य बदल्यांच्या कालावधीत देखील बदली करण्यात येऊ नये. तसेच ३ वर्षपेक्षा अधिक कालावधी झालेल्या अधिकारी/कर्मचाऱ्याची बदली, माहे एप्रिल किंवा मे महिन्यांव्यतिरिक्त अन्य महिन्यामध्ये विशिष्ट कारण व लगतच्या सक्षम प्राधिकाऱ्याची मान्यता घेतल्याखेरीज करू नये. केवळ ३ वर्षपेक्षा अधिक कालावधी झाला आहे या कारणास्तव माहे एप्रिल किंवा मे महिन्यांव्यतिरिक्त अन्य महिन्यामध्ये बदली करू नये.

८. एखाद्या प्रकरणात ३ वर्षपेक्षा कमी कालावधी असलेल्या अधिकारी/कर्मचाऱ्याच्या विरोधात गैरवर्तणुकीच्या तक्रारी प्राप्त झाल्यास केवळ तक्रारीच्या आधारे संबंधीत अधिकारी/कर्मचाऱ्याची बदली करण्यात येऊ नये. अशा प्रकरणात संबंधीत अधिकारी/कर्मचाऱ्यांच्या तक्रारीसंबंधातील वस्तुस्थिती जाणून घेऊन (आवश्यक तेथे अहवाल मागवून) तक्रारीमधील गांभीर्य विचारात घेऊन, संबंधीत अधिकारी/कर्मचारी त्याच पदावर ठेवणे आवश्यक आहे किंवा कसे याबाबत बदली प्राधिकाऱ्याने ठोस निर्णय घ्यावा. संबंधीत अधिकारी/कर्मचाऱ्याच्या विरोधातील तक्रारीमध्ये तथ्य आढळून आल्यास संबंधीत अधिकारी/कर्मचाऱ्याला त्याच पदावर ठेवून त्याच्याविरुद्ध शिस्तभंगाची कारवाई सुरू करण्याबाबत बदली प्राधिकाऱ्याने निर्णय घ्यावा. मात्र संबंधीत अधिकारी/कर्मचाऱ्याला त्याच पदावर ठेवणे योग्य नाही असे बदली प्राधिकाऱ्याचे मत झाल्यास त्याबाबतची कारणामिमांसा नमूद करून बदली प्राधिकारी संबंधीत अधिकारी/कर्मचाऱ्याची बदली त्याच्या लगतच्या वरिष्ठ प्राधिकाऱ्याकडे प्रस्तावित करू शकतो. लगतच्या वरिष्ठ प्राधिकाऱ्याकडे असा प्रस्ताव प्राप्त झाल्यास बदली प्राधिकाऱ्याने नमूद केलेली कारणे योग्य आहेत किंवा कसे याची छाननी करून स्वतःचे मत स्पष्ट करून बदली प्राधिकाऱ्याच्या प्रस्तावाला मान्यता द्यावी किंवा बदली प्राधिकाऱ्याचा प्रस्ताव फेटाळून

लावण्यात यावा. ज्या प्रकरणात बदली प्राधिकाऱ्याच्या प्रस्तावानुसार गैरवर्तणुकीच्या अनुषंगाने शासकीय अधिकारी/कर्मचारी यांची बदली करण्यात येते अशा प्रकरणात संबंधीत अधिकारी/कर्मचारी यांची बदली केल्यानंतर त्याच्या विरुद्ध शिस्तभंगाची कारवाई सुरु करण्याची दक्षता घ्यावी.”

9. It emerges from the record that after receiving complaints against these Petitioners, the concerned Authority (Badli Pradhikari) has conducted inquiries and submitted a report dated 02.02.2024, to the Collector, Ahmednagar stating that these Petitioners are not discharging their duties efficiently. So also, their behaviour was inappropriate with the visitors who used to visit their respective offices for official work.

10. Accordingly, the Collector, Ahmednagar has placed the said report before the Civil Services Board. In it's meeting dated 16.02.2024, the Board passed a resolution and recommended transfer of these Petitioners. On the basis of the recommendations from the Civil Services Board, the Collector has forwarded the letters dated 01.03.2024, to the Divisional Commissioner, Nashik, for seeking approval before effecting transfers. The Divisional Commissioner, Nashik, vide letters

dated 11.03.2024 and 12.03.2024, granted approval for effecting transfers.

11. Therefore, the impugned transfers of all these Petitioners, were strictly in adherence to the guidelines prescribed in clause 8 of the GR dated 11.02.2015 and the provisions of The Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short, 'the Transfer Act, 2005').

12. There can be no debate that mid-term transfer of employees, even before they complete 3 years at a particular posting, is permissible under exceptional circumstances and for administrative exigencies, by due adherence to clause 8 of the above referred GR and the provisions of the 2005 Act. The learned Advocates representing the Petitioners have vehemently canvassed that the procedure has not been followed and hence, though it may sound to be a technicality, the transfer orders should have been interfered with by the learned Tribunal. It is also canvassed that the transfers are punitive in nature.

13. We are conscious of the fact that we are exercising our limited Supervisory jurisdiction in these matters. We have perused the impugned judgment of the learned Tribunal. The above aspects have been considered in the judgment and the contentions of the Petitioners have been adverted to and reasons have been assigned while sustaining the transfer orders.

14. It appears that, the learned Tribunal has considered the GR dated 11.02.2015, more particularly clause No. 8, which mandates that if any complaint/s is/are received against an employee, the said officer/employee should not be transferred merely on the basis of any complaint, but the competent authority should verify the imputations made in the said complaint/s. Upon prima-facie considering the seriousness of those allegations, a decision, to either initiate a Departmental Enquiry without transferring the said employee, or to transfer such officer/employee, if the Competent Authority finds it appropriate, can be arrived at after prior approval of the immediate superior transferring authority.

15. In these cases, on perusal of the minutes of the meeting of the Civil Services Board held on 16.02.2024, it reveals that the Civil Services Board considered the reports submitted by the concerned Tahsildars (Badli Pradhikari) and recommended the transfers of these Petitioners. The Civil Services Board has specifically observed that due to conduct of the Petitioners/Employees in the respective Tahsil Offices, the general administration of work is being hampered and there is every possibility that the Tahsildar's Offices would be accused of inefficiency.

16. The summary of the complaints against the Petitioners reveals that though oral understating was given to the Petitioners/ concerned employees, there was hardly any improvement. The said Report further reveals that there was a public outcry and continuing the Petitioners at the place where they were working, would be inappropriate. Therefore, clause 8 of G.R. dated 11th February, 2015 was adhered to.

17. Needless to say that, the Collector/Board has very

well considered the reports submitted by the Tahsildars. The transfers are effected under exceptional circumstances and purely on administrative exigencies taking into consideration the allegations of misconduct against these Petitioners. Further, vide the transfer order dated 15.03.2024, the Petitioners were actually relieved with directions to take over the charge at the transferred place. However, the Presenting Officer of the State appearing before the Tribunal is said to have made a statement contrary to the records. Hence, the Tribunal had granted ad-interim relief to the Petitioners.

18. The Hon'ble Supreme Court has held in ***Syed Yakoob v/s K.S.Radhakrishnan, AIR 1964 SC 477*** and ***Surya Dev Rai v/s Ram Chander Rai, AIR 2003 SC 3044 : 2003 (6) SCC 682***, that merely because a different view could be possible, would not justify interference in the impugned order. We, therefore, do find that the impugned judgment could be branded as being perverse or illegal, more so, since we agree with the conclusions of the Tribunal.

19. **The Writ Petitions are, therefore, dismissed.** Rule is discharged.

20. We are informed that Smt.Kaveri Adik has reported for duties at the place of transfer. She has started working from 12.08.2024. In view of the status-quo granted, she had not joined earlier. We, therefore, observe that there shall be no break in her service and she would be entitled for salary Tribunal.

21. However, since the State of Maharashtra will be celebrating the festival of Shree Ganesh Chaturthi (arrival of Lord Ganesh ji) for 11 days, followed by Dushera and Diwali, and taking into account that these Petitioners were protected by the Tribunal since March, 2024, that we direct that the Petitioners (except Smt.Kaveri Adik who has already joined) shall join their places of transfer on the first working day after the Diwali holidays.

kps

(Y.G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)