

(2017) 06 BOM CK 0097
In the Bombay High Court
Case No : 6286 of 2017

Sanjay Shankar Shedge

APPELLANT

Vs

Raigad Zilla Parishad Alibaug And Ors.

RESPONDENT

Date of Decision : 29-06-2017

Acts Referred:

[Constitution of India](#), [Article 226](#) -
Power of High Courts to Issue certain writs

Citation : (2017) 06 BOM CK 0097

Hon'ble Judges : Shantanu S. Kemkar, M.S. Sonak

Bench : DIVISION BENCH

Advocate : Avinash K. Jalisatgi, Amol B. Desai, Ratnesh R Mishra, C.G.
Gavnekar, P.P. More

Final Decision : Dismissed

Judgement

1. By filing this petition under Article 226 of the Constitution of India the petitioner who is working on the post of Extension Officer (Statistic) has challenged the order dated 19-05-2017 by which he has been transferred from Roha to Murud.

2. The grievance of the petitioner is that he has not completed the normal tenure of 10 years of positing at one place as fixed in the transfer policy. According to him he has completed only 7 years and 11 months at the present place of posting and in such circumstances the impugned transfer order is in violation of transfer policy. It is also the grievance of the petitioner that no reasons have been assigned in the impugned transfer order as to why he has been transferred prior to completion of his normal tenure of posting.

3. The respondents have filed reply and have justified the action of the transfer of the petitioner. It has been stated that the Respondent No.1 Zilla Parishad is having cadre of Extension Officer (Statistics). There are in total 37 posts sanctioned in the said cadre. Out of 37 posts, 34 posts are filled leaving behind vacancy of 3 posts. Out of 37 posts, 17 posts are allotted to Integrated Child

Development Scheme Project (ICDS). The remaining 20 posts are allotted to General Administration. Out of 17 posts for ICDS, 16 posts are filled and 1 post is vacant. The petitioner at the time of transfer was working at Roha Block on ICDS Project. The vacant post is at Murud which is at a distance of 32 k.m. from Roha. The Block of Murud is hilly region requiring particular attention and Officer to attend the activities of ICDS. The said post had remained vacant for more than one year and therefore, under Government decision dated 15-05-2014, it was necessary to take a decision to fill the said post and accordingly, by following the procedure the petitioner has been transferred to Murud. It has been further stated that prior to the said decision survey of cadre of ICDS was taken and it was found that the petitioner was continuously working at the present post and he was at serial No.3 in the said cadre. Two other senior persons in the cadre to the petitioner namely Shri.A.B. Thale and Shri.R.B. Ghotkar who have put more number of years at Pen and Mangaon Block. The respondents have further stated that both of them were aged about 56 years and about to retire on superannuation on completion of 58 years. Chapter 1 Clause 3(kh) of the Government Decision dated 15-05-2014 provides that the employees who have completed 53 years on 31st May should be exempted from Transfer. In the circumstances, those Extensions Officer though senior to the petitioner could not have been transferred from their respective Blocks namely Pen and Mangaon. It is also the case of the respondents that for the administrative exigencies the employee can be transferred even prior to completion of normal tenure at particular place.

4. Having gone through the aforesaid reasons we are satisfied that there was sufficient administrative exigency requiring the petitioner to be transferred before completion of normal tenure of posting. It has now been well settled that transfer is an incident of service and in the absence of strong case of malafide or breach of statutory rules or the transfer order being passed by the incompetent authority the same will not be interfered into by the Courts. The contention of the petitioner that the reasons ought to have been assigned in the transfer order is wholly misconceived. The employer is fully empowered to transfer his employee for the administrative reasons and that the reasons need not to be spelled out in the transfer order.

5. Having regard to the aforesaid in our considered view no case is made out to interfere into the impugned transfer order. As a result the petition deserves to be and is hereby dismissed.