



BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT
THANE

(PRESIDED BY :- MRS. PRADNYA S. KALE, MEMBER)

COMPLAINT (ULP) NO. 87 of 2025

(CNR No. MHIC04 000 155 2025)

Ganesh Budhaji Vadhavinde - Complainant

: **Versus** :

Zilla Parishad, Thane & Ors. - Respondents

:- ORDER BELOW EXH. U-2 :-

(Delivered on 30th September, 2025)

The complainant has filed this complaint under Section 28(1) r/w. Items 3, 9 and 10 of Schedule-IV of the MRTU & PULP Act, 1971. In the same complaint, application for interim relief is made for claiming various reliefs as per prayer clause, against the Respondents.

2. It is submitted that, the complainant is an employee of the respondents and presently posted at Group Gram Panchayat Dapode, Taluka – Bhiwandi, Dist. Thane since last 3 years. It is the Class ‘C’ post. As per order dated 19.05.2025, the respondent no. 2 has transferred the complainant from the present post to Gram Panchayat Fansoli, Taluka – Murbad, Dist. Thane. He has to report for duty from 01.06.2025. At the time of filing of complaint, he was not relieved from his earlier Section, so yet he had not reported on his new place of transfer. It is further

submitted that, the transfer of Gram Panchayat Adhikari is governed by the policy decision taken by the State Government on 15.05.2014 by issuing the Government Resolution. As per the Clause of said G.R., the transfer has to be affected by following the due process explained or else the disciplinary action would be followed. The complainant is purportedly transferred on administrative reasons. As per the stipulated time table and procedure, the respondents have to comply with the process within fixed time schedule. But the respondents have committed the breach of the clauses of transfer policy and with malafide intention had made the transfer of the complainant, in order to accommodate a favourable employee at his place. By explaining in detail about the service rendered by the complainant since last 10 years, it is submitted that, he was not due and eligible to transfer. He had already worked for much longer period in the Tribal Area. The Model seniority list and final seniority list have not been finalized and published within time. The entire seniority list become incorrect as the candidates mentioned therein were shown at same headquarter.

3. The said transfer is change of service conditions as he was not due for transfer and seniority list was also not properly prepared. Here it is without consent of the complainant employee and without following due process of law. The complainant is transferred by committing

breach of service conditions. So by filing the present complaint about commission of unfair labour practice, in which by filing of application Exh.U-2, the claim is made about grant of interim relief by staying the effect of transfer order. Various documents are filed on record. As per list Exh.U-4, U-10, the further submission is made about existence of prima facie case, balance of convenience in favour of the complainant and about causing of irreparable loss, if the order is not passed.

4. Notice was issued to other side. As per Exh.C-3, reply is filed by raising the strong objection in defence. It is submitted that, as per Government G.R. dated 15.05.2014 issued by Rural Development Department, there is no restrictions of percentage / service rendered for filling the vacant posts in tribal area. The transfers are required to be made for tribal area from the remaining Taluka and also to achieve the balance in all posts for the remaining Taluka. Hence, as the transfer order is issued by the procedure followed as per Government Resolution, so the complainant has been transferred as per his seniority and also for filling the vacant post of tribal area. Therefore, submission is made to reject the application with costs.

5. Various documents are placed on record as per list Exh.C-4 including the copy of minutes of meetings held for counseling and Government Resolution.

6. Heard arguments at length from both sides. Perused the documents and citations referred. Following points arise for determination. The findings against each of them are recorded for the reasons to be followed.

<u>Points</u>	<u>Findings</u>
1. Whether the Complainant is having Prima Facie Case ?	- Affirmative
2. Whether the balance of convenience tilts in favour of the Complainant ?	- Affirmative
3. Whether the comparative hardship and irreparable loss will be caused to the Complainant, if application is rejected ?	- Affirmative
4. What Order ?	- As per final order.

-: REASONS :-

7. **As To Points No.- 1 to 3 :-** In order to establish the claim, the complainant has to explain the existence of prima facie case, the entitlement of the complainant for claiming the reliefs against the respondents, how the balance of convenience will lie in favour of the complainant and how the complainant would suffer irreparable loss, if the relief is not granted. It all needs to be properly

established on the basis of principles of equity and natural justice, pleadings made and documents filed on record by both sides.

8. During the course of arguments from the side of the complainant, it is argued that, as per list Exh.U-4, copy of transfer order is placed on record alongwith the copy of G.R. The said transfer order states about counseling of the employees and the office note prepared. Accordingly, as per the G.R. dated 15.05.2014, the norms are provided for transferring all the employees of respondents. The transfer policy is to be implemented by considering all the directions of G.R. It is further submitted that, the complainant had already served in the tribal area for more than three years of his service in total. So also, the complainant is not due for transfer and inspite of the same, he is transferred.

9. Further it is argued that, by considering the duration of residence in the tribal or Naxlist area, the transfers are to be effected. The seniority list is to be prepared. The fixed time bound programme is to be implemented to implement the transfer policy. It is pointed out that, no directions were followed as per the G.R. There was delay at every stage as per fixed time schedule. Moreover, in the seniority list prepared earlier, the changes were made and some of the employees namely Mr. Bang and Mr. Madke were shown as handicap, but they were not shown handicap in the earlier list. It is mentioned that,

they have subsequently provided their certificates, so they were not transferred. As they were not transferred, the complainant is considered under the Zone of transfer, otherwise, he was not to be considered for the same. Therefore, without providing knowledge about changes made in seniority list to the complainant, suddenly the transfer order is issued.

10. By providing the details about deputed employees or employees in Gram Panchayat, who were never worked in the tribal area, the question is raised and submission is made about causing unfair labour practice with complainant. It is submitted that, the opportunity to raise the objection was never provided to the complainant. Principles of natural justice were violated. There is breach of clauses of G.R. No time bound schedule was observed and service conditions were also not taken into consideration. There is gross violation of norms of policy of transfer committed by respondents. All the transfers are to be effected till 15th of May every year. Now even if the complainant is transferred, it will be the mid term transfer, which is not permissible on regular basis. Hence, the claim is made about existence of prima facie case, balance of convenience in favour of complainant and causing of irreparable loss to the complainant only, in case the application is not allowed. So the prayer is made to allow the application.

11. Further it is argued that, the respondents have committed violation of G.R. on each and every stage of the policy implementation. With ill-motive, the respondents have transferred the complainant. Earlier he was in the tribal area. It was not taken into consideration. About maintaining the balance in all posts at all stations, it is submitted that, for some places, the enhanced posts were shown. Even for some places intentionally the name of concerned Panchayat Samiti is wrongly mentioned only to canvas the picture of maintaining similarity and alleged balance. Hence, by pointing out from the documents, it is submitted that, though the complainant is not shown as surplus and not due for transfer, without considering his earlier tribal service, he is intentionally transferred by committing unfair labour practice with him. Hence, he is entitled to claim interim relief.

12. The reliance is placed on the referred citations filed at Exh.U-15 as below.

- (a) Somesh Tiwari Vs. Union of India & Ors. - Civil Appeal No. 7308 of 2008.
- (b) Smt. Sangita d/o. Daryawaji Chandrikapure – Writ Petition No. 5911 of 2023 (H.C.).

13. Perused the same. The guidelines are provided for effecting all these transfer policies as per G.R. and mode of considering the guidelines. These are the settled legal principles needs to be taken into consideration.

14. From the side of the respondents, it is argued that, as per G.R. dated 15.05.2014, the transfers are effected. As per the Government policy of providing 100% postings at tribal area, it is mandatory to transfer the employee there for which there is no restrictions of service duration. Posts fulfillment is mandatory. There is no necessity to check the tenure or eligibility about the employee regarding due for transfer. It is pointed out from the documents that, various criteria are settled for effecting the transfer as mutual transfer, transfer on seniority and transfer for maintaining the balance for all the posts. So accordingly by following the norms, these transfers are effected. Hence, by filing the present complaint, such reliefs cannot be claimed. The remedy is available to approach to the Divisional Commissioner. In spite of availing the same, here the claim is made, which is not maintainable. Hence, submissions are made to reject the application.

15. Additional reply is also submitted as per Exh.C-6 by submitting that, as per seniority list, by considering the seniority duration, the complainant is transferred. Even though the names of handicap candidates are inserted, the complainant was still due for transfer. Till 08.05.2025, there was no objection raised. Hence, by following all conditions of G.R. and for fulfilling the 100% criteria of tribal area, the complainant is required to be transferred.

Some of the employees in the transfer list have never served in the tribal area, so they were compulsorily transferred, but thereafter also as the posts were vacant, the complainant is transferred. To maintain the balance in all posts at all stations, there is no requirement of considering the percentage or duration of earlier service. The policy of transfer is required to be implemented as per G.R. and there cannot be any violation of the same. The G.R. needs to be challenged before the Hon'ble High Court.

16. After considering all these facts and circumstances, here it is clear that, for effecting transfers annually, the strict compliance of G.R. is expected from respondents. It is necessary to follow all those schedules about time and follow the same as provided in the G.R. Moreover, while transferring the employees, the due consideration is required to be given for considering the earlier years of services, seniority, service in the tribal area and its duration. The advantages are provided to the employees, who had spent their earlier service period in such tribal area. All these angles are required to be taken into consideration while implementing the transfer policy. Here the complainant has not challenged the said G.R., but disputed about not following all those norms of G.R. by the respondents.

17. Moreover, the seniority list is also required to be prepared as per settled norms by providing the opportunity

to raise the objection, if any. For all the changes made in the seniority list regarding change in the entry of name of employee, its category or any new criteria, it is also required to provide the opportunity to other affected employees. The principles of natural justice are always required to be followed. Moreover, while transferring the employees, who are not under the consideration Zone or not due for transfer, at the time of counseling, the opportunity needs to be given. The time schedule which is fixed as per G.R. needs to be strictly adhered.

18. Here as per documents placed on record, it is seen that, for effecting the transfer for fulfillment of the posts at tribal area, the complainant is transferred without considering his earlier service in the tribal area, tenure of his service and he was not made aware in changes made in the seniority list. It is equally true to consider and maintain the balance in all posts at all stations and fulfillment of all posts in tribal area, the transfers are required to be effected. As per the service condition also, the employees are required to be transferred not always as per their choices and at the suitable posts. While considering all these aspects, here it is seen that, as the opportunity to challenge the seniority list by raising the objection, is not sufficiently provided to the complainant. Inserting the names of handicap candidates in the seniority list, so as to provide them seniority, but not considering them as

suitable for transfer in the tribal area, may cause injustice with the other employees as they were not made aware about these changes made in the seniority list, subsequently.

19. Further it is clear that, while effecting the transfer, all the settled norms were not strictly followed by the respondents and within fixed time schedule, the transfers were not effected, which indicates the implied intentions to transfer the complainant without considering any criteria of transfer. The group of circumstances bringing the facts on record of any issue, which requires the detail trial or consideration are successfully brought on record. It establishes the existence of strong prima facie case in favour of complainant and by not following the clauses of G.R. properly by respondents, the balance of convenience tilts in favour of complainant. As per issued transfer order, if the complainant is transferred and no relief is granted at this interim stage in his favour, he would suffer the irreparable loss. Hence, Points No. 1 to 3 are answered in affirmative and for Point No. 4, following Order is passed -

-: **ORDER** :-

1. Application Exh. U-2 is allowed.
2. The effect and operation of transfer order dated 19.05.2025 issued, is hereby stayed by granting

interim relief only for the complainant in this process of transfer.

3. Costs in cause.

Place :- Thane

(Mrs. Pradnya S. Kale)

Member,

Date :- 30-09-2025

Industrial Court, Thane

Rsr/-