

**BEFORE THE INDUSTRIAL COURT, MAHARASHTRA,
(AMRAVATI BENCH), A M R A V A T I.**

Comp. (ULP) No.51/2025.
CNR No.MHIC27000067-2025.

Smt. Chanda Chedidlal Yadav
----- Versus -----
Chief Executive Officer, Zilla Parishad, Amravati.

ORDER BELOW EXH.U-2
(Passed On 17.07.2025)

01] Applicant has filed complaint u/s 28 R/w Item 3, 5 & 9 of Schedule IV of MRTU & PULP Act for setting aside impugned transfer order dated 08.05.2025 and to direct the non-applicant to retain the applicant at present station and to pay up to date salary including the arrears of salary etc. The applicant has filed present application u/s 30(2) of the Act to stay the effect and operation of the order dated 08.05.2025 and to direct the respondent to retain her in plain area.

02] Respondent/non-applicant has filed written statement cum reply (Exh.C-5) and denied material averments adverse to it. I have heard both the sides. Following points arises for my determination and I record my findings with reasons thereon as under.

	<u>POINTS</u>	<u>FINDINGS</u>
1]	Whether the applicant has made out prima facie case ?No.
2]	Whether balance of convenience lies	

- in favour of the applicant ?No.
- 3] Whether applicant would suffer irreparable loss if interim relief as prayed for is not granted ?No.
- 4] What Order ? As per final order.

REASONS

03] **As to point No.1 to 3** :- As all the points are inter connected, they are discussed together. Ld. Advocate for the applicant has argued that the applicant had already worked in tribal area since 1998 to 2005 at Chopda, District-Jalgaon. Thereafter, on 17.12.2005, applicant was transferred in Zilla Parishad, Amravati and initially posted at Amner Panchayat Samittee, Warud and continued there till 27.10.2007. On 28.10.2007 applicant was posted in Panchayat Samittee Nandgaon Khandeshwar in PHC Satargaon and since then she is working there. Applicant is not due for transfer in tribal area and there is no administrative exigency to transfer her from present station to tribal area. He submits that the non-applicant has not followed proper procedure while passing transfer order.

04] Ld. Advocate for the applicant further submits that the husband of the applicant is working in City Police, Amravati. As per Government Resolution dated 15.05.2014, respondent has to retain the husband and wife at nearer station within 30 Kms. However, respondent

has not considered the said Government Resolution. He submits that Shilpa Harale, Sujata Tayde and many other employees, who never worked in tribal area, are not transferred in tribal area which shows favouritism to one set of employees regardless of merit. According to him, applicant has prima facie case and balance of convenience lies in her favour and if transfer order is not stayed she would suffer irreparable loss. Upon these contentions, Ld. Advocate for the applicant prayed to allow the application.

05] Ld. Advocate for the applicant in support of his contention relied upon the case of **John Virendra Kumar Vs. State of Rajasthan and another (1999 I CLR 95)** wherein Hon'ble Bombay High court in Para No.7 observed that "To my mind before depriving husband and wife from livable life by way of transferring them every transferring authority must record reasons in writing as to why it is not possible to allow husband and wife to work at one place".

06] In the case of **Sheshrao Nagorao Umap Vs. State of Maharashtra and others (1985 (1) Bom.C.R. 30)**, Hon'ble Bombay High Court observed that "The power of transfer must be exercised in good faith, and as per the guidelines laid down in that behalf. While implementing the transfer it cannot pick and choose. If the order of

transfer is malafide or in colourable exercise of the power, the Court is bound to interfere. Once a policy is laid down by the Government it must apply equally to every employee". Ld. Advocate for the applicant further relied upon the case of **Azizul Rehman Vs. District Magistrate Deoria and another (1997 DGLS (All.) 1381)** and **Mr. M.R. Ghai Vs. Union of India and others (1989 LAB I.C. 1892)**.

07] The Ld. Advocate for the non-applicant has argued that applicant is working since 2005 in the plain area and she never worked in tribal area of Amravati District. Applicant is due for transfer. Applicant has produced final seniority list which prima facie shows that the employees at Sr.No.12 to 70 are quite junior to the applicant and they have served only 7 months and 15 days service.He submits that in the year 2014, applicant was transferred from PHC Satargaon to PHC Dhultghat but she filed Comp.(ULP) No.32/2014 and under the garb of interim order she retained her posting. Thereafter, again in the year 2016 applicant was transferred but she again filed Com.(ULP) No.130/2016 and under the garb of interim order she again retained her posting. Later on, Comp.(ULP) No.130/2016 was dismissed on merit. The applicant has again challenged transfer order on the similar grounds which are raised in the earlier complaints. He submits that the conduct of the applicant shows that she is in habit to

avoid her transfer.

08] Ld. Advocate for the non-applicant argued that according to the applicant the posting of husband and wife should be posted at the nearer station within 30 Kms. However, the scheme of unification cannot be claimed as of right. He further submits that as per the direction given by the Hon'ble High Court, the post of tribal area cannot be kept vacant. Applicant is transferred to PHC Salona on clear and vacant post at the place of Smt. Hina Kausar who has completed 5 years of service in PHC Salona. Hina Kausar has mentally challenged son. Applicant has not joined her service at the place of her transfer and, therefore, Hina Kausar is not relieved and she is facing hardship. Upon these contentions, Ld. Advocate for the non-applicant has prayed to reject the application.

09] The Ld. Advocate for the non-applicant in support his contention relied upon the case of **Union of India and others Vs. S.L. Abbas (1993 AIR SCW 1753)** wherein the Hon'ble Supreme Court observed that "While ordering the transfer of Government employee, there is no doubt, the authority must keep in mind the guide lines issued by the Government on the subject, but the said guidelines do not confer upon the Government employees a legally enforceable right. Who should be

transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by malafides or is made in violation of any statutory provisions, the court cannot interfere with it”.

10] In the case of **Rajendra Roy Vs. Union of India and another (AIR 1993 S.C. 1236)**, Hon’ble Supreme Court in Para No.7 observed that “It is true that the order of transfer causes a lot of difficulties and dislocation in the family set up of the concern employees but on that score the order of transfer is not liable to be struck down. Unless such order is passed malafide or in violation of the rules of service and guidelines for transfer without any proper justification, the court and the tribunal should not interfere with the order of transfer. In a transferrable post and order of transfer is a normal consequence and personal difficulties are matters of consideration of the department”.

11] In the case of **Bank of India Vs. Jagjit Singh Mehta (AIR 1992 SC 519)**, Hon’ble Supreme Court observed that “the posting of husband and wife at the same station cannot be claimed as of right”.

12] I have considered the submissions of both the sides and material produced on the record. Keeping in mind the submissions of both the sides, documents placed on the record and the observations made in the above decisions, this court has to decide the application. It is

undisputed fact that the applicant was appointed in Jalgaon, Zilla Parishad and posted in Chopada Tahsil. From the pleading and submissions, it appears that on 07.12.2005 applicant was transferred to Zilla Parishad, Amravati. The applicant was initially posted at Amner under Panchayat Samittee, Warud and continued there till 28.10.2007. Thereafter, applicant was transferred to PHC Satargaon Panchayat Samittee Nandgaon Khandeshwar and working there from 29.10.2007. From the pleading and submissions, it appears that the applicant is working in plain area of Zilla Parishad, Amravati since 2005.

13] From the submission of both the sides and case papers, it appears that in the year 2014 applicant was transferred from Satargaon to PHC Dulghat but she filed Comp.(ULP) No.32/2014 for setting aside her transfer order. Thereafter, in the year 2016, applicant was transferred but she again filed Comp.(ULP) No.130/2016 for setting aside her transfer and under the garb of interim order she retained her posting at Satargaon. Later on, Comp.(ULP) No.130/2016 is dismissed on merit. It is a matter of record that the applicant is transferred by an order dated 08.05.2025 from Satargaon to Salona which is challenged in the present case. All these factors shows that whenever applicant was transferred, she challenged the same. The applicant has retained her posting at

Stagargaon for more than 17 years.

14] Ld. Advocate for the applicant has submitted that applicant was not due for transfer. He has produced final seniority list of the employees who are due for transfer for the year 2025 which prima facie shows that the applicant is senior most employee who is due for transfer. Non-applicant has also produced counselling list which bear the signature of applicant. Counseling list prima facie shows that the respondent has given an opportunity to the applicant before passing transfer order.

15] Ld. Advocate for the applicant has submitted that Shilpa Harle and Sujata Tayde and many other employees, who never worked in tribal area, are not transferred in tribal area which shows favouratism of one set of employees regardless of merit. In the final seniority list, the name of Shilpa Harle and Sujata Tayde appear at Sr.No.16 and 17. Final seniority list shows that Shilpa Harle and Sujata Tayde have served 7 months and 15 days only and they are quite junior to the applicant.

16] Applicant has produced G.R. dated 15.05.2014. In the G.R., it is mentioned that "बदलीतून सुट देण्यात आलेले कर्मचारी वगळता प्रत्येक कर्मचा-यांने विहित धोरणग्रच्या अधीन राहून आदिवासी/नक्षलग्रस्त भागात काम करणे बंधनकारक करण्यात येत आहे". As per the said G.R., it is made compulsory for every employee to render his or her services at tribal or naxal area.

According to Ld. Advocate for applicant, as the applicant has served in tribal area at Chopada, District Jalgaon, she cannot be transferred again in the tribal area. However, there is no hard and fast rule that the applicant cannot be transferred again in the tribal area. It is entirely for the employer to decide who should be transferred where from his or her present posting.

17] Ld. Advocate for the applicant submits that the husband of applicant is working in City Police, Amravati and as per G.R. respondent has to retain husband and wife at nearer station within 30 Kms. Though there is policy and guidelines to facilitate the posting of spouses at nearer station within 30 Kms, it is not a guaranteed right and is subject to various administrative constraints and condition including availability of the post and specific circumstances of the case. The non-applicant has to maintain the balance of filling up the vacancies at such tribal area/non tribal area.

18] Applicant has challenged her transfer order dated 08.05.2025 and prayed to grant stay to effect the operation of transfer order. It is well settled that a transfer which is an incident of service is not to be interfered with by the courts unless it is shown to be clearly arbitrary or vitiated by malafides or in fraction of any professed norm or principle governing the transfer. The document produced on the record shows that the applicant has not served in tribal area of Zilla Parishad, Amravati. She

is senior most employee and due for administrative transfer. There is nothing on record to show that the other senior employees from the category of applicant, who are due for transfer, are not transferred in tribal area.

19] On going through the documents produced on the record and submissions, prima facie it appears that the non-applicant has followed the guidelines of GR dated 15.05.2014. There is no prima facie material on record to show that there was personal bias or oblique motive of the non-applicant in transferring the applicant. In view of the above discussions, I am of the view that neither prima facie case nor balance of convenience lies in favour of the applicant. In the result, there is no question of causing any irreparable loss to the applicant if interim relief is not granted. For these reasons, applicant is not entitled to interim relief as prayed for. Hence, I answer the point no.1 to 3 in the negative and pass following order.

ORDER

- 1] Application Exh.U-2 is rejected.
- 2] No order as to costs.

Date : 17.07.2025.
Amravati.

(H.A. Ali)
Member,
Industrial Court, Amravati.