

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 18815 OF 2017
[@ SPECIAL LEAVE PETITION (C) NOS. 12955 OF 2017]

VIJAY S/O WAMANRAO KAMBLE

Appellant (s)

VERSUS

DNYANESHWAR MAHADEO MALI & ORS.

Respondent(s)

J U D G M E N T

KURIAN, J.

1. Leave granted.

2. Inter-District transfer in Revenue Service in the State of Maharashtra has given rise to this litigation. Finding that the transfer of the appellant has affected the promotion of people already working in the transferred district, namely Latur, the High Court intervened and set aside the transfer.

3. Aggrieved, the appellant approached this Court. It has been the contention of the appellant that by his transfer from Hingoli to Latur, nobody had been affected since he belonged to the Scheduled Caste category. It was also submitted that the transfer is made by the Government in exercise of its power under Section 4(5) of the Maharashtra Government Servants

Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005. Section 4(5) is reproduced as under :-

"Notwithstanding anything contained in section 3 or this section the competent authority may, in special cases, after recording reasons in writing and with the prior [approval of the immediately superior] Transferring Authority mentioned in the table of section 6, transfer a Government servant before completion of his tenure of post."

4. The provision does not enable the Government or the competent authority to make an inter-district transfer affecting the chance of others. Sub-section 5 of Section 4, as extracted above, pertains only to transfer before completion of tenure, which we find from Section 3 as three years. The appellant was a Senior Clerk in Hingoli district and by transferring him to Latur district, the Clerks who have been waiting for promotion are certainly affected.

5. We find from the data furnished before this Court that there are people qualified in the respective category, who have been waiting for promotion as Senior Clerk.

6. Be that as it may, Section 4(5) is not an enabling provision for the Government to make inter-district transfer affecting the chance of people already working in the transferee districts. The provision, subject to its riders therein, only enables the authority to transfer an employee before completion of the normal period of three years. The District Collector, in the detailed affidavit filed before this Court on 03.11.2017, has submitted that there was no vacancy available in Latur so as to accommodate the appellant without affecting anybody in the district.

7. In view of the above, we find no merit in the appeal, which is, accordingly, dismissed.

No costs.

.....J.
[KURIAN JOSEPH]

.....J.
[R. BANUMATHI]

New Delhi;
November 07, 2017.

ITEM NO.15

COURT NO.5

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 12955/2017

(Arising out of impugned final judgment and order dated 07-03-2017 in WP No. 8569/2016 passed by the High Court Of Judicature At Bombay At Aurangabad)

VIJAY S/O WAMANRAO KAMBLE

Petitioner(s)

VERSUS

DNYANESHWAR MAHADEO MALI & ORS.

Respondent(s)

(IA No.114550/2017-EXEMPTION FROM FILING O.T.)

Date : 07-11-2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. Atul Babasaheb Dakh, AOR
Mr. Yuvaraj Baburao Gaikwad, Adv.

For Respondent(s) Mr. Mahaling Pandarge, Adv.
Mr. Nishant Ramakantrao Katneshwarkar, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The civil appeal is dismissed in terms of the signed
non-reportable Judgment.

Pending Interlocutory Applications, if any, stand disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(SNEH LATA SHARMA)
COURT MASTER

(Signed non-reportable Judgment is placed on the file)