

SHRI ARVIND DATTATRAYA DHANDE

A

v.

THE STATE OF MAHARASHTRA AND ORS.

JULY 10, 1997

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

B

*Service Law—Transfer—Appellant an Excise Officer—Conducted raid on a toddy contractor—Seizure of adulterated toddy containing poisonous substance which may endanger lives of consumers—Sincere and legal action taken by appellant—Counter complaint lodged by toddy contractor against the appellant—On the basis of contractor's claim action taken against the appellant—Ultimately appellant came to be transferred—Transfer order upheld by Administrative Tribunal—Appeal before Supreme Court—Transfer was not in public interest but was a case of victimisation of an honest officer—The transfer of the appellant was nothing but mala fide exercise of the power to demoralise an honest officer—The transfer order stands quashed.*

C

D

*Government Officer—Diligent and honest discharge of duties by—Demoralisation of such an Officer—Judicial deprecation of.*

CIVIL APPELATE JURISDICTION : Civil Appeal No. 4651 of 1997.

E

From the Judgment and Order dated 6.12.96 of the Maharashtra Administrative Tribunal, Aurangabad, in O.A. No. 925 of 1995.

L.N. Rao and S.U.K. Sagar for the Appellant.

D.M. Nargolkar and S.M. Jadhav for the Respondents.

F

The following Order of the Court was delivered :

Leave granted.

We have heard learned counsel on both sides.

G

It is most unfortunate that the Government demoralises the officers who discharge the duties honestly and diligently and brings to book the persons indulging in black marketing and contrabanding the liquor. This is one of the eloquent case where such a sorry state of affairs has come to light.

H

A This appeal by special leave arises from the order of the Maharashtra Administrative Tribunal, Aurangabad Bench, made on December 6, 1996 in O.A. No. 925 of 1995 upholding the order of transfer of the appellant. We directed the learned counsel appearing for the State to produce the record and the material which is made the basis for transfer of the  
B appellant. The sequence to be mentioned hereunder stands testimony to the facts. The transfer is nothing but *mala fide* and arbitrary action at the behest of the persons interested to target the honest officers who efficiently discharge the duties.

C On December 26, 1994, the appellant conducted a raid on Mr. Rathod at Dharayan Tal, Erandol Amalner Tal, Amalner. Sample was taken from the Toddy for analysis on the even date; consequently, offences were registered on December 29, 1994, on the basis of the Analysis Report received on August 25, 1995. It revealed that the toddy was adulterated. Therein, it was clearly stated that it contained Chloral Hydrate, a very  
D harmful and poisonous substance which could endanger the lives of the consumers. The appellant asked for permission of the competent authorities to prosecute the licensee and also for cancellation of the licence. By his proceedings of even date, i.e., August 25, 1995, permission was granted. As a counter-blast to sincere and legal action taken by the appellant against Mr. Narayana Goud, the toddy contractor, the latter  
E lodged his complaint against the appellant on August 30, 1995 and the Minister for District (designated as Guaradia Minister) repeated the complaint to the Minister for State, Excise on the basis of the contractor's complaint on September 28, 1995. This is lynching point where the officer was alleged to be wanting in duty. It would be obvious that that based upon  
F this complaint given by the Guaradia Minister to the Minister for State Excise, triggered another complaint by one Shewala, President of the Country Liquor Association on October 7, 1995. Pursuant to the permission for cancellation of the licence, licence came to be cancelled on September 24, 1996. On the basis of these complaints, the action appears to have been initiated as per the proceedings dated November 18, 1995.  
G Action was taken against the appellant and ultimately he came to be transferred. It is seen that the officer supposed to review the performance of the duties of the officers on July 7, 1995, i.e., Deputy Commissioner, Excise had, reviewed and stated that from March 25 to May 25, 1995 he collected articles Rs. 34,996.00, Rs. 1,91,853.00 and Rs. 1,80,143.00 in three  
H months. In his commendation he has stated that "after considering the

above said particulars, except Mr. A.D. Dhande, Inspector Flying Squad A  
Jalgaon” not a single officer had fulfilled the required quota.” “Please  
congratulate Mr. Dhande on my behalf for his excellent work and for he  
has fulfilled his target.” It was signed by S.A. Patil, Deputy Commissioner,  
Excise.

In view of the unimpeachable and eloquent testimony of the perfor- B  
mance of the duties, it will be obvious that the transfer is not in public  
interest but is a case of victimisation of an honest officer at the behest of  
the aggrieved complainants carrying on the business in liquor and toddy.  
Under these circumstances, as stated earlier, the transfer of the appell- C  
ant is nothing but *mala fide* exercise of the power to demoralise honest officers  
who would efficiently discharge the duties of a public office.

The appeal is, accordingly, allowed. The transfer order of the appel- D  
lant stands quashed. Order may be communicated to the Chief Secretary  
to take appropriate action against the persons responsible for it and the  
action taken may be informed to this Registry.

T.N.A.

Appeal Allowed.