

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 120 OF 2018
(Subject – Transfer)**

DISTRICT: NANDED

Shri Sunil s/o Bhimrao Nikalje,)
Age: 52 years, Occu. : Service,)
(as Police Inspector,)
R/o Vazirabad Police Officer Quarters,)
Behind Vazirabad Police Station,)
Nanded, Dist. Nanded.)

.. **APPLICANT**

V E R S U S

- 1) **The State of Maharashtra,**)
Through its Secretary,)
Home Department, M.S.,)
Mantralaya, Mumbai- 32.)
- 2) **The Superintendent of Police,**)
Nanded, District Nanded.)

.. **RESPONDENTS**

APPEARANCE : Shri A.S. Deshmukh, Advocate for the
Applicant.

: Smt. Sanjivani K. Deshmukh-Ghate,
Presenting Officer for the Respondents.

CORAM : B.P. PATIL, MEMBER (J).

DATE : 27.07.2018.

O R D E R

1. The applicant has challenged the order dated 21.12.2017 issued by the respondent No. 2, by which he has been transferred from Nanded Rural Police Station to Police Control Room, Nanded by filing the present Original Application.

2. The Applicant belongs to S.C. category. He entered in Police Department of Government of Maharashtra as Police Sub-Inspector in the year 1995. In the year 2007, he has been promoted as Assistant Police Inspector and in the year 2012, he has been promoted as Police Inspector. In the month of February, 2016 he has been transferred to Nanded District from Osmanabad District and accordingly, he joined his new posting in Nanded District and since then, he is working in Nanded District. On 23.02.2017 he was working in Bhagyanagar Police Station. On that day the respondent No. 2 passed the order directing him to join Nanded Rural Police Station. Accordingly, he joined Nanded Rural Police Station. Thereafter on 23.02.2017, respondent No. 2 issued transfer order thereby regularizing his posting at Nanded Rural Police Station and since then, he was working there. On 08.11.2017, the respondent No. 2 had orally directed him to report at Control Room, Nanded. Accordingly, he left the Nanded Rural Police Station and joined Control Room, Nanded. It is his contention that he worked hardly for 9-10 months at Nanded Rural Police Station. He had not completed his normal tenure of posting at Nanded Rural Police Station, but the respondent No. 2 has issued the impugned order of transfer and illegally transferred him to

Control Room, Nanded. The impugned order is mid-tenure and mid-term order and it is against the provisions of Section 22N of the Maharashtra Police Act. It is his contention that in view of the provisions of Section 22N (1) of the Maharashtra Police Act, the State Government is only the competent authority to transfer the Police Personnel on the ground of contingencies mentioned in Clause (a) to (e) of the said provisions. It is his contention that in view of the provisions of Section 22N (2) of the Maharashtra Police Act, the competent authority is empowered to transfer the police personnel in exceptional circumstances, in public interest and on account of administrative exigencies. It is his contention that the respondent No. 2 is not the competent authority to transfer the applicant on the ground of dereliction in duty or negligence and therefore, the impugned order dated 21.12.2017 is illegal, arbitrary, irrational and illogical. The impugned order is against the provisions of Section 22 (N) of the Maharashtra Police Act. Therefore, he approached this Tribunal by filing the present Original Application and prayed to quash and set aside the impugned order of transfer and also prayed to direct the respondent No. 2 to repost him at Nanded Rural Police Station.

3. Respondent Nos. 1 and 2 have filed their affidavit in reply and resisted the contention of the applicant. They have denied

that the impugned transfer order is in contraventions of provisions of Section 22N of the Maharashtra Police Act and the same is illegal. The respondents have denied that the said order has been issued by the respondent No. 2 arbitrarily and without application of mind. It is their contention that the applicant, while discharging official duties, committed various grave misconduct and he had not obeyed the orders issued by the superior officers. Therefore, enquiries have been conducted in the default report against the applicant and the reports were submitted to the Special Inspector General of Police, Nanded Range, Nanded for further action. Considering the reply of the applicant, the Special Inspector General of Police, Nanded Range, Nanded had punished him in three cases and imposed punishment accordingly. In one of the case, punishment of stoppage of increment for one year has been imposed on the applicant. Not only this, but other enquiries in default cases are still pending. The applicant was not capable of discharging his duties and therefore, injustice was caused to the public at large. Therefore, in the public interest and on the ground of administrative exigencies, he has been transferred from Nanded Rural Police Station to Control Room, Nanded by impugned order. It is their contention that the proposal regarding transfer

of the applicant along with other Police Officers on the ground of public interest and administrative exigencies has been placed before the District Police Establishment Board in its meeting held on 11.12.2017. The relevant documents regarding the enquiry in defaults report made against the applicant has been placed before the District Police Establishment Board and after considering the same, the District Police Establishment Board decided to transfer the applicant from Nanded Rural Police Station to Control Room, Nanded in the public interest and on the ground of administrative exigencies. On the basis of decision of the District Police Establishment Board, the respondent No. 2 issued impugned transfer order. It is their contention that in the meeting of District Police Establishment Board, it was found that in the public interest it is necessary to transfer the applicant and therefore, he has been transferred accordingly. It is their contention that in view of the powers vested with the District Police Establishment Board under Section 22N(1) of the Maharashtra Police Act, the transfer of the applicant has been made and there is no violation of provisions of Maharashtra Police Act. It is their contention that the impugned order is in accordance with the provisions of Maharashtra Police Act and there is no illegality in it. Therefore, they supported the

impugned order of transfer and prayed to reject the present Original Application.

4. I have heard Shri A.S. Deshmukh, learned Advocate for the applicant and Smt. Sanjivane K. Deshmukh-Ghate, learned Presenting Officer for the respondents. Perused the documents placed on record by both the parties.

5. Admittedly, the applicant joined the Police Force in the year 1995 as Police Sub Inspector. Thereafter, he was promoted to the cadre of Assistant Police Inspector and Police Inspector in the year 2007 and 2012 respectively. In the month of February, 2016 he has been transferred to Nanded District from Osmanabad District and since then, he is working in the Nanded District. Admittedly, on 23.02.2017 he was attached to the Bhagyanagar Police Station and on that day, the respondent No. 2 passed the order attaching the applicant to Nanded Rural Police Station and thereafter, his attachment has been regularized at Nanded Rural Police Station by order dated 27.04.2017. Admittedly, on 08.11.2017, the respondent No. 2 had orally directed the applicant to report at Control Room, Nanded and accordingly, he joined Control Room, Nanded. Thereafter, on 21.12.2017 respondent No. 2 issued impugned

order of transfer and transferred the applicant from Nanded Rural Police Station to Control Room, Nanded. Admittedly, the applicant has not completed his normal tenure of posting at Nanded Rural Police Station and he worked there for about 9-10 months only.

6. Learned Advocate for the applicant has submitted that the applicant has not completed his normal tenure of posting of two years at Nanded Rural Police Station and he has hardly completed 9-10 months there. But the respondent No. 2 issued impugned order of transfer and transferred the applicant from Nanded Rural Police Station to Control Room, Nanded. He has submitted that the impugned order is mid-tenure and mid-term transfer order.

7. He has submitted that in view of the provisions of Section 22N(1) of the Maharashtra Police Act, the State Government is the only competent authority to transfer the Police personnel in various cadres on the grounds mentioned in Clause (a) to (e) of the said Act. He has submitted that the allegations made against the applicant are about dereliction in duty and negligence and therefore, the case of the applicant falls under clause (e) of sub section (1) of Section 22N of the Maharashtra

Police Act. In such case, the Government is the only competent authority to make transfer of the applicant. He has submitted that no exceptional case has been made out by the respondent No. 2, while making transfer of the applicant and the impugned order of transfer was not in the public interest and on the ground of administrative exigencies. But the respondent No. 2 had simply raised the said ground while making transfer of the applicant and therefore, the impugned order is not legal and in accordance with the provisions of Section 22N(1) & (2) of the Maharashtra Police Act. He therefore, prayed to quash and set aside the impugned order, as it is illegal and arbitrary.

8. Learned Presenting Officer has submitted that there were serious lapses on the part of the applicant while discharging the duties as Police Inspector at Nanded Rural Police Station and several default reports were made against him. Inquiry had been conducted in those reports and the reports have been sent to the Special Inspector General of Police, Nanded Range, Nanded. In some of the cases punishment has been imposed against the applicant and other inquiries are pending. He has submitted that he proposal regarding transfer of the applicant has been placed before the District Police Establishment Board in its meeting dated 11.12.2017 along with entire record of the enquiry

initiated against the applicant. The District Police Establishment Board considered the said enquires and the punishment imposed therein and decided to transfer the applicant from Nanded Rural Police Station to Control Room, Nanded in the public interest and on the ground of administrative exigencies. He has submitted that on the basis of the decision taken by the District Police Establishment Board, the respondent No. 2 issued impugned order. He has submitted that the case of the applicant falls under the provisions of Section 22N(2) of the Maharashtra Police Act and the District Police Establishment Board is the competent authority to transfer him. Accordingly, the decision has been taken by the District Police Establishment Board in its meeting held on 11.12.2017. He has submitted that there is no illegality in the impugned order of transfer and therefore, he supported the same. Therefore, she prayed to reject the present Original Application.

9. On perusal of the minutes of the District Police Establishment Board dated 11.12.2017, it reveals that the record regarding the default of the applicant and enquiry made therein and the punishment imposed on the applicant has been placed before the District Police Establishment Board. The Members of Board considered the entire record and arrived at conclusion that

the applicant was not capable to perform duty diligently and there were several complaints from public against him. He was not capable to redress the grievances of the public. Therefore, the Board came to the conclusion to transfer him in the public interest and on the ground of administrative exigencies and accordingly, decided to transfer him from Nanded Rural Police Station to Control Room, Nanded. On the basis of decision taken by the District Police Establishment Board, the respondent No. 2 issued impugned order of transfer dated 20.12.2017 (Exhibit R-2, page no. 51 wrongly quoted by the applicant as 21.12.2017).

10. On perusal of the provision of Section 22N of the Maharashtra Police Act, it reveals that the provisions of Section 22N(1) of the said Act empowers the State Government to transfer any police officer on the grounds mentioned in clause (a) to (e), while the provisions of Section 22N(2) provides that the competent transferring authority can make transfer of the police personnel in the public interest and on the ground of administrative exigencies in exceptional cases. The Police Establishment Board at District Level is the competent transferring authority for making transfer of the police personnel in view of the provisions of Section 22N(2) of the Maharashtra Police Act. In the present case, the Police Establishment Board

at District Level has decided to transfer the applicant in the public interest and on account of administrative exigencies considering the misconduct of the applicant. The applicant was unable to satisfy the complaints of the public at large and therefore, considering the said exceptional circumstances the District Police Establishment Board decided to transfer the applicant from Nanded Rural Police Station to Control Room, Nanded. The reasons are recorded in the minutes of the meeting of the District Police Establishment Board held on 11.12.2017. Therefore, in my view, there is sufficient compliance of the provisions of Section 22N(2) of the Maharashtra Police Act by the respondent No. 2 while making the transfer of the applicant. District Police Establishment Board at District level is the competent authority to transfer the applicant and therefore, I found no illegality in the impugned order of transfer. Therefore, I do not find merit in the submissions advanced by the learned Advocate for the applicant in that regard. The impugned order of transfer is in accordance with the provisions of Maharashtra Police Act and there is no violation of the provisions of Section 22N of the said Act and therefore, no interference is called for in it. There is no merit in the present O.A. Consequently it deserves to be dismissed.

11. In view of the discussions in foregoing paragraphs, the present Original Application stands dismissed with no order as to costs.

PLACE : AURANGABAD.

DATE : 27.07.2018.

(B.P. PATIL)

MEMBER (J)

KPB S.B. O.A. No. 120 of 2018 BPP 2018 Transfer