

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

Original Application No. \_\_\_\_\_ of 20 \_\_\_\_\_

DISTRICT \_\_\_\_\_

..... Applicant/s

(Advocate .....

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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Date : 20.12.2017.

C.A.No.45/2017 in O.A.No.72/2011

V.S. Mane .....Applicant.

Versus

The State of Maharashtra & Ors. ....Respondents.

1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Ms. S.P. Manchekar, the learned Chief Presenting Officer for the Respondents.

2. Order passed on 06.09.2017 is eloquent. The amount is liable to be disbursed to the Applicant as ordered in paragraph no.5 of order dated 06.09.2017.

3. Registrar should comply the order and report on the next date.

4. S.O. to 04.01.2018.

**DATE :** 20/12/17

**CORAM :**  
Hon'ble Justice Shri A. H. Joshi (Chairman)

**APPEARANCE:**  
Shri/Smt. A.V. Bandiwadekar  
Advocate for the Applicant

Shri/Smt. Ms. S. P. Manchekar  
C.P.O./P.O. for the Respondent/s

Adj./S.O. to S.O. to 4/1/18.

Sd/-  
(A.H. Joshi)  
Chairman

prk

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

*Allowed*  
*20/12/17 (C)*

*MA 545/17-1A*

Original Application No.

*1112 of 20 17*

DISTRICT

*Mr. P.D. Shinell*

..... Applicant/s

(Advocate *Mr. D.W. Bhosale*.....)

*versus*

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
<p><b>DATE :</b> <i>20/12/2017</i></p> <p><b>CORAM :</b> Hon'ble Justice Shri A. H. Joshi (Chairman)</p> <p><b>ADVOCATE :</b> Shri/Sd/- <i>D. Bhosale</i></p> <p>Advocate for the Applicant</p> <p>Shri/Sd/- <i>S.P. Manchekar</i> C.P.O./Sd/- for the Respondents</p> <p>Ad: <i>M.A. is allowed.</i> <i>O.A. is restored.</i></p> <p><i>HE</i></p>	<p><i>Heard.</i></p> <p><i>MA is allowed. OA is restored.</i></p> <p>Sd/- <i>A.H. Joshi</i> <i>20/12/2017</i></p>

(Advocate .....

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram,  
Appearance, Tribunal's orders or  
directions and Registrar's orders

Tribunal's orders

**20.12.2017****M.A 542/2017 in O.A No 1161/2017**

Shri S.S Patil &amp; Others ... Applicants

Vs.

The State of Maharashtra &amp; Ors... Respondents

1. Heard Shri C.R Thorat, learned advocate for the applicants and Ms S.P Manchekar, learned Chief Presenting Officer for the Respondents.

2. This is an application for leave to sue jointly.

3. Considering the cause of action pursued by the Applicants is common, concurrent and usual, the cases are not required to be decided separately.

4. In this view of the matter, the present Misc Application is allowed subject to applicants paying requisite court fees, if not already paid.

**DATE :** 20/12/17**CORAM :**

Hon'ble Justice Shri A. H. Joshi (Chairman)

**APPEARANCE:**Shri/Smt. C.R. Thorat

Advocate for the Applicant

Shri/Smt. Ms. S. P. Manchekar  
C.P.O./R.O. for the Respondent/sAdv/S.O. to M.A. is allowed.

Akn

Sd/-  
(A.H. Joshi, J.)  
Chairman

20.12.2017

O.A No 1161/2017

Shri S.S Patil & Others ... Applicants  
Vs.  
The State of Maharashtra & Ors... Respondents

1. Heard Shri C.R Thorat, learned advocate for the applicants and Ms S.P Manchekar, learned Chief Presenting Officer for the Respondents.

2. Learned Advocate for the applicants submits that the process for the selection to the post is going on. In the circumstances, the concerned Respondents are directed to put in the declaration as well as to put a declaration in the concerned file and also put to notice to the candidates that the selection, if any, shall be subject to the outcome of the present O.A.

3. Issue notice returnable on 15.1.2018.

4. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.

5. Applicants are authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

6. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

7. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicants are directed to file affidavit of compliance and notice.

8. In case notice is not collected within 3 days or service report on affidavit is not filed 3 days before returnable date, Original Application shall stand dismissed without reference and papers be consigned to record.

9: S.O to 15.1.2018.

**DATE :** 20/12/17

**CORAM :**

Hon'ble Justice Shri A. H. Joshi (Chairman)

**APPEARANCE:**

Shri/Smt. C.R. Thorat

Advocate for the Applicant

Shri/Smt. Ms. S.P. Manchekar

C.P.O./P.O. for the Respondent/s

Adj. S.O. to S.O. to 15/1/18.

(A.H Joshi, J.)  
Chairman

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO 404 OF 2017

DISTRICT : PUNE

Mrs Vaishali Vikrant Jadhav, )  
Working as Assistant Commissioner of Police )  
Residing at Kirti Elegant, Flat no. 4, )  
Mhalunge, Pune. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through Chief Secretary, )  
Mantralaya, Mumbai 400 032. )
2. The Additional Chief Secretary, )  
Home Department, Mantralaya, )  
Mumbai 400 032. )
3. The Commissioner of Police, )  
Police Commissioner Office, Camp, )  
Pune 411 001. )
4. Shri Vikram B. Patil, )  
Assistant Commissioner of Police, )  
Special Branch No. 1, )  
Police Commissioner Office, Camp, )  
Pune 411 001. )...**Respondents**

Smt Punam Mahajan, learned advocate for the Applicant.

Shri N.K Rajpurohit, learned Presenting Officer for the Respondents no 1 to 3.

Shri R.S Samant, learned advocate for Respondent no. 4.



**CORAM : Shri Justice A.H Joshi (Chairman)**

**RESERVED ON : 06.12.2017**

**PRONOUNCED ON : 20.12.2017**

**ORDER**

1. Heard Smt Punam Mahajan, learned advocate for the Applicant, Shri N.K Rajpurohit, learned Presenting Officer for the Respondents no 1 to 3 and Shri R.S Samant, learned advocate for Respondent no. 4.

2. By the present Original Application, the applicant has challenged order of posting by which applicant is posted/transferred from her last posting at Chaturshringi Division Pune as A.C.P (Administration), and in her place Respondent no. 4 Shri Vikrma B. Patil, is posted by transferring him from Special Branch No. 1.

3. Case proceeds on following admitted background:-

- (a) Applicant as well as Respondent no. 4 have not completed two years tenure which is statutory duration.
- (b) Both of them are transferred / posted within the establishment of Pune Commissionerate.
- (c) Competent Authority to transfer as averred by the applicant as provided in Section 22N(1)(b) and 22N(2)(b) is Home Minister.
- (d) The impugned order is neither passed, nor passed upon approval of Home Minister.
- (e) Admittedly, the Commissioner of Police, Pune has sent a report to the Director General of Police, Mumbai, which is purportedly adverse/unfavourable to the applicant and so far no action is taken by D.G.P on said report.

(f) The impugned transfer/posting is mid-term and mid-tenure.

4. The impugned order is sought to be justified by the Commissioner of Police, Pune. The justification is recorded in the affidavit in reply, while answering averments contained in paragraphs 6.10 and 6.15.1 to 6.15.4.

5. The contents of reply travels long and long. However, it shall suffice to refer to the averments contained in para 19, which answers para 6.10, alone since it condenses the averments contained in para 22 to para 26 of the affidavit in reply of the Commissioner of Police.

6. Learned Advocate for the applicant has relied on the following judgments:-

- (i) Judgment of Hon'ble Supreme Court in Prakash Singh & others Vs. Union of India & Others, (2006) 8 SCC 1.
- (ii) Judgment of this Tribunal dated 10.3.2016, Shri Rajendra M. Todkar Vs. The State of Maharashtra & Ors, O.A no 609/2015.
- (iii) Judgment of this Tribunal dated 20.11.2015 in Mr Sham Mahadev Sundkar & Ors Vs. The State of Maharashtra & Ors, O.A nos 562/2015 & Ors.
- (iv) Judgment of this Tribunal dated 12.7.2016 in Shri A.R Pwar & Anr Vs. State of Maharashtra & Ors, O.A no 466 & 467/2016.
- (v) Judgment of this Tribunal dated 26.8.2016 in Shri Rajesh S. Devare Vs. The State of Maharashtra & Ors, O.A 555/2016.

7. It is sought to be asserted as has been shown by the Respondents that the issue as to whether the Commissioner of



Police has power to arrange posting within the territory of Commissionerate is no more res-integra and no more open for debate as it is finally adjudicated by a binding precedent of Hon'ble High Court of Judicature at Bombay as decided in Rajan R. Bhogale Vs. State of Maharashtra, Writ Petition No. 10622 of 2013.

8. Perusal of judgment of Hon'ble High Court in case of Rajan R. Bhogale Vs. State of Maharashtra, Writ Petition No. 10622 of 2013, relying on the judgment of Hon'ble Supreme Court and after long discussion, Hon'ble High Court has recorded in paras 26, 27 & 28 as follows:-

"26. To our mind, the observations in the Tribunal's order that even the posting orders have to be issued by Police Commissioner with the permission of the State has no basis in law. The Tribunal is aware that power of internal posting vests in the superior, in this case, the Police Commissioner of Pune and he can exercise all such powers as are conferred in the police commissioner by law. In such circumstances, in matters of posting, the interference by the tribunal was totally uncalled for and wholly unwarranted.

27. The Tribunal completely lost sight of the fact that the documents produced before it would show that the respondent no. 3 reported to the Commissioner, Pune and was firstly appointed as ACP Control Room. Thereafter, he was brought to the post of ACP Special Branch from ACP Control Room. In such circumstances, to urge that he had a vested right to be posted at Wanawadi cannot be accepted. The present petitioner was also ACP Traffic and was transferred as ACP Traffic and was transferred as ACP Wanawadi Division. Therefore, such issues are beyond the purview of the Tribunal dealing with service matters. More so, when the transfer was as ACP, Pune city and in the post of Vitthal Pawar, is an arrangement which confers some rights, yet, the respondent No.3 did not bring in any material to show that he was transferred and/or posted as ACP Wanawadi. He just relied upon the wording of transfer order and claimed the right. If that right could be claimed by such persons, then, the whole concept of transfer and posting would turn upside down and it would mean that transfer and posting are both matters within the exclusive domain of



the State Government. That they are not so and posting can be done by the Pune Police Commissioner is apparent and clarified all through out and even before us.

28. In the above circumstances, we do not find that the Tribunal was justified in allowing the original application and interfering with matters of posting of the officers in the Pune Commissionerate. That has caused grave prejudice not only to the individual officers but results in total miscarriage of justice. The Government Resolutions do not in any manner indicate that posting of Government officers within the division or the commissionerate is a power not vesting with the police commissioner of city but exclusively in the State Government. In such circumstances, by some circuitous reasoning the Tribunal has taken away that power from the commissionerate.”

9. In the result, this Tribunal is guided as well as bounded by the law laid down by the Hon'ble High Court.

10. Disposal of this Original Application does not call for any longer discussion, than what is done before.

11. It is not shown by the applicant that judgment of Hon'ble High Court of Judicature at Bombay in Rajan R. Bhogale Vs. State of Maharashtra, Writ Petition No. 10622 of 2013, supra is either overruled/set aside or distinguished.

12. Hence Original Application has no merit and is dismissed.



Sd/-

(A.H Joshi, J.)  
Chairman

**Place : Mumbai**  
**Date : 20.12.2017**  
**Dictation taken by : A.K. Nair.**