

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 356 OF 2020  
(Subject – Transfer)**

**DISTRICT : AHMEDNAGAR**

**Kiran S/o Baban Kolpe,** )  
Age : 34 years, Occu. : Service (Police Constable))  
R/o. Viladghat, Tq. & Dist. Ahmednagar. ) .... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through its Principal Secretary, )  
Home Department, Mantralaya, )  
Mumbai - 32. )
2. **The Superintendent of Police,** )  
Ahmednagar, Dist. Ahmednagar. )
3. **The Police Inspector,** )  
M.I.D.C. Police Station, Ahmednagar, )  
Tq. & Dist. Ahmednagar. ) ... **RESPONDENTS**

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**APPEARANCE** : Shri N.B. Narwade, Advocate for the Applicant.

: Shri B.S. Deokar, Presenting Officer for  
Respondents.

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**CORAM** : **SHRI V.D. DONGRE, MEMBER (J).**

**DATE** : **04.02.2022.**  
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**O R D E R**

1. The present Original Application has been filed challenging the impugned order dated 11.09.2020 (Annexure A-1) issued by

the respondent No. 2 i.e. the Superintendent of Police, Ahmednagar, Dist. Ahmednagar, thereby the applicant has been transferred from M.I.D.C. Police Station, Ahmednagar, Dist. Ahmednagar to Jamkhed Police Station, Tq. Jamkhed, Dist. Ahmednagar.

2. The facts in brief giving rise to this Original Application can be summarized as follows:-

(i) The applicant was initially appointed in Police constabulary on 15.11.2008 on the post of Police Constable. Lastly he was transferred to M.I.D.C. Police Station on 03.07.2017. Since then he is working there. However, before completion of requisite tenure at M.I.D.C. Police Station, Ahmednagar, he has been transferred by the impugned order dated 11.09.2020 (Annexure A-1). It is stated to be mid-term and mid-tenure transfer order.

(ii) It is further contended that in fact on 10.09.2020, the applicant lodged F.I.R. bearing Crime No. 709/2020 at M.I.D.C. Police Station, Ahmednagar against one Sagar Suryabhan Kadam, who is closed to the acting Minister of the Rahuri Constituency, as the said person was obstructing the applicant in official work. In this

background, the applicant came to be transferred. It is in violation of the principles of natural justice. No any show cause notice is issued to the applicant regarding his work, while working at M.I.D.C. Police Station, Ahmednagar. No proper procedure is followed before passing the impugned order of transfer on the ground of alleged misconduct or misbehavior. It is against the Circular dated 08.11.2017 issued by the Special Inspector General of Police, Maharashtra State. Hence, this Original Application.

3. The affidavit in reply is filed on behalf of respondent Nos. 1 to 3 by one Shri Manoj Govind Patil, Superintendent of Police, Ahmednagar, thereby he has denied all the adverse contentions raised in the Original Application. It is not disputed that the Crime No. 709/2020 is registered at M.I.D.C. Police Station, Ahmednagar as stated by the applicant. However, it is contended that background of the said F.I.R., is not the ground of transfer of the applicant. In fact, there is default report issued by the Assistant Police Inspector, Ahmednagar on 11.09.2020, in which it is specifically stated that since 03.07.2017 the applicant is discharging duties of traffic control and while doing so, his behavior with the public and local representatives is not proper and several complaints were received regarding the same.

Moreover, letter dated 21.08.2020 was also received from the Hon'ble Minister for Urban Development, Energy, Tribal Development, Higher and Technical Education, Disaster Management Relief and Rehabilitation, Maharashtra State, Mumbai, expressing the view that the conduct of the applicant is not proper. In these circumstances, the applicant has been transferred under administrative exigencies and in public interest. The impugned transfer order is therefore, justifiable and hence, the present Original Application is liable to be dismissed.

4. The applicant has filed rejoinder affidavit, thereby denying the adverse contentions raised in the affidavit in reply and reiterated the contentions raised in the present Original Application. It is further stated that the default report is devoid of merits and cannot be based for effecting transfer.

5. Perusal of the impugned transfer order dated 11.09.2020 (Annexure A-1), would show that the same is issued as per the provisions of Sub-section (6) of Section 22J of the Maharashtra Police Act. It is pertinent to note that there is no Sub-section (6) of Section 22J of the Maharashtra Police Act and therefore,

prima-facie, it appears that the vague provision is quoted in the impugned order of transfer dated 11.09.2020 (Annexure A-1).

6. It is not disputed that the applicant was posted at M.I.D.C. Police Station, Ahmednagar on 03.07.2017. The impugned order of transfer is dated 11.09.2020. The applicant is working as Police Constable. Hence, he falls under the category of Constabulary. As per the provisions of Section 2(4A-1) of the Maharashtra Police Act, Constabulary means Police Constable, Police Naik, Police Head Constable and Assistant Sub-Inspector.

7. Further in view of the provision of Section 22N(1)(b) of the said Act, the normal tenure of Police Constabulary is of five years at one place of posting. In the case in hand, the applicant has been transferred before completion of five years tenure. Hence, it is necessarily mid-term and mid-tenure transfer order.

8. In this case, the respondents have raised the contention that in view of the default report dated 11.09.2020 (Page No. 26 of paper book), the applicant was transferred by placing the said default report before requisite District Police Establishment Board. The minutes of the meeting of the District Police Establishment Board are produced at page No. 29 of the paper book along with affidavit in reply. Moreover, copy of the letter

dated 21.08.2020 (page No. 32(A) of the paper book) issued by the Hon'ble Minister of Urban Development, Energy, Tribal Development, Higher and Technical Education, Disaster Management Relief and Rehabilitation, Maharashtra State, Mumbai, whereby it is stated that various serious complaints were received from the people against the applicant.

9. The concerned provision regarding mid-term and mid-tenure transfer is incorporated in sub-section (2) of Section 22N of the Maharashtra Police Act, which is as follows :-

*“(2) In addition to the grounds mentioned in sub-section (1), in exceptional cases, in public interest and on account of administrative exigencies, the Competent Authority shall make mid-term transfer of any Police Personnel of the Police Force.”*

So I have to see as to whether the respondents have complied with the requirement of the abovesaid provisions, in this regard. If default report dated 11.09.2020 (page No. 26 of paper book) issued by the Assistant Police Inspector, MIDC Police Station, Ahmednagar, as well as, letter dated 21.08.2020 (page No. 32(A) of paper book) issued by the Hon'ble Minister are considered, the contents of both these letters are vague. In the default report, it is mentioned that the behavior of the applicant

is not proper with the general public and local representatives while discharging duties of traffic control since 03.07.2017. Nothing is produced on record to substantiate the contentions raised therein. There is nothing on record to show that any preliminary enquiry regarding conduct of the applicant was made and that there was substance in the allegations against the applicant. Same is regarding letter dated 21.08.2020 (Page No. 32(A) of pa paper book) issued by the Hon'ble Minister. In view of the same, by any stretch of imagination, it cannot be said that those were verified complaints having substance in them. In fact, the allegations made therein, prima-facie, seem to be vague. In view of the same, I am of the considered opinion that the impugned order of transfer is passed without verifying the nature of complaints against the applicant. Hence, the same can be said to be punitive.

10. In the circumstances as above, the respondents have failed to establish that the case even falls under exceptional circumstances, public interest or on account of administrative exigencies as contemplated under Section 22N(2) of the Maharashtra Police Act. In fact the impugned order refers to the provisions of Section 22J(6), which is not there in the statute book.

11. In the circumstances as above, in my considered opinion, the impugned order of transfer of the applicant is not sustainable in the eyes of law. In fact, it is issued in contravention of the provisions of Section 22N(2) of the Maharashtra Police Act. It is prima-facie punitive in nature. In the circumstances, the impugned order of transfer is liable to be quashed and set aside. I therefore, proceed to pass following order :-

**ORDER**

- A. The Original Application No. 356 of 2020 is allowed.
- B. The impugned order of transfer of the applicant dated 11.09.2020 (Annexure A-1) is hereby quashed and set aside.
- C. The respondents are directed to repost the applicant at his earlier place of posting i.e. at M.I.D.C. Police Station, Ahmednagar within a period of one month from the date of this order.
- D. There shall be no order as to costs.

**PLACE : AURANGABAD.**

**DATE : 04.02.2022.**

**(V.D. DONGRE)  
MEMBER (J)**