

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 372 OF 2020

(Subject – Transfer / Posting)

DISTRICT : JALNA

1. **Ramsingh Bhagwansingh Chavan,**)
Age : 51 years, Occ. : Service as)
Assistant Sub-Inspector,)
SRPF Group No.3, Jalna,)
R/o. Shakuntala Nagar, Mantha Road,)
Near Meenakshi Children Hospital,)
Jalna.)
2. **Sunil Sudarshan Ghorpode,**)
Age: 54 years, Occ.: Service as)
Assistant Sub-Inspector,)
SRPF Group No.3, Jalna,)
R/o Officers' Family Quarter,)
SRPF, Group - III, Jalna.)
3. **Promod Shatrughna Thorat,**)
Age: 54 years, Occ.: Service as)
Assistant Sub-Inspector,)
SRPF Group No.3, Jalna,)
R/o House No.49, Prashanti Nagar,)
Opp. Datta Ashram,)
Nhava Road, Jalna.)
4. **Satesingh Gangasingh Rana,**)
Age: 52 years, Occ.: Service as)
Assistant Sub-Inspector,)
SRPF Group No.3, Jalna,)
R/o B-3/ G-2, 300 Quarters,)
Manthan Road, Jalna.)

5. **Manoj Baliram Mane,**)
Age: 51 years, Occ.: Service as)
Assistant Sub-Inspector,)
SRPF Group No.3, Jalna,)
R/o Shakuntala Nagar,)
Behind Hotel Vijay Darbar, Jalna.)
6. **Deepak Vyankatrao Badure,**)
Age: 45 years, Occ.: Service as)
Assistant Sub-Inspector,)
SRPF Group No.3, Jalna,)
R/o House No.50, Shambhaji Niwas,)
Shakuntala Nagar, Manthan Raod,)
Jalna.)
7. **Rajendra Ramrao Mundhe,**)
Age: 43 years, Occ.: Service as)
Assistant Sub-Inspector,)
SRPF Group No.3, Jalna,)
R/o B-1, 300 Quarters,)
SRPF Group No. III, Manthan Road,)
Jalna.)
8. **Subhash Sudam Khodpe,**)
Age: 52 years, Occ.: Service as)
Assistant Sub-Inspector,)
SRPF Group No.3, Jalna,)
R/o Old family line, SRPF Group III,)
Manthan Road, Jalna.)
9. **Santosh Madhav Wagh,**)
Age: 38 years, Occ.: Service as)
Head Constable,)
SRPF Group No.3, Jalna,)
R/o Mahalaxmi Residency,)
Choudhari Nagar, Manthan Road,)
Jalna.)

- 10. Rameshwar Gunaji Kakad,**)
 Age: 48 years, Occ.: Service as)
 Assistant Sub-Inspector,)
 SRPF Group No.3, Jalna,)
 R/o Sun City Plot No.15,)
 Chaudhari Nagar, Manthan Road,)
 Jalna.)
- 11. Shivanand Haribhau Nagare,**)
 Age: 42 years, Occ.: Service as)
 Head Constable,)
 SRPF Group No.3, Jalna,)
 R/o Building No.9, 300 Quarters)
 SRPF, Manthan Road, Jalna.) **.... APPLICANTS**

V E R S U S

- 1. The State of Maharashtra,**)
 Through the Additional Chief Secretary,)
 Home Department,)
 Mantralaya, Mumbai-400 032.)
- 2. The Additional Director General of**)
Police (Estt.),)
 Office of the Director General of Police,)
 Mumbai.)
- 3. The Special Inspector General of**)
Police SRPF,)
 Maharashtra State, Mumbai.)
- 4. The Commandant,**)
 SRPF, Group No. III, Jalna.) **... RESPONDENTS**

APPEARANCE : Shri Ajay Deshpande, Advocate for the
 Applicants.

: Shri N.U. Yadav, Presenting Officer for
 Respondents.

CORAM : **SHRI BIJAY KUMAR, MEMBER (A).**

DATE : **24.12.2021.**

ORDER

1. The Original Application has been filed invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985 challenging the impugned order dated 24.04.2020 issued by the respondent No. 4, the Commandant, State Reserve Police Force, Group No. III, Jalna (in short "SRPF"), allegedly reposting the applicants from the cadre of Driver to Armed Force after 7 to 26 years as Driver.

2. The applicants in the present O.A. have claimed their rights to continue in the cadre referred to as "Driver" and in order to buttress their claims they have submitted certain facts gist of which may be put as follows:-

(a) The applicants were initially recruited as Armed Police Constables following a selection process as per the Recruitment Rules for the post of Armed Police Constables in State Reserve Police (in short, "SRPF").

(b) The Applicant Nos. 1 to 8 and applicant No. 10 are at present in the rank of Assistant Sub-Inspector and

applicant Nos. 9 and 11 are in the rank of Head Constable after getting promotion through prescribed promotion channel.

(c) The applicants have got promotion from the post of Armed Police Constables to their respective present ranks passing through promotion channel of Armed Police Constable to Police Naik, Police Naik to Police Head Constable and Police Head Constable to Assistant Sub-Inspector (in short, "ASI"), as the case be, and at present their names appear in the seniority list of cadres of Assistant Sub-Inspector and Head Constables respectively under "SRPF" as the case may be.

(d) In order to rake services of drivers for the vehicles of "SRPF" certain number of Armed Police Constables had been sent for training as motor vehicle drivers from time to time. The applicants too, had been trained as motor vehicle drivers and they have worked as such in SRPF, driving light motor vehicles and heavy motor vehicles for long periods ranging from 7 years to 26 years.

(e) The applicants claim that there is a Driver cadre in SRPF and all the co-applicants have been, on availability of

substantive vacancies in the Driver cadres, appointed as Driver in the Driver Cadre under SRPF.

(f) The applicants have submitted photo copies of certain orders of their postings / appointments as “Emergency Driver” and “Regular Driver” in support of their claim that the phrase “नेमनुक” used in these orders amounts to appointment in the cadre of Driver by way of absorption from the cadre of Armed Police Constabulary to the cadre of Drivers in “SRPF”.

(g) In order to buttress their claim of “Drivers” being a separate cadre in “SRPF”, the applicants have drawn a parallel of their case with cadre of Police Band and Armour Workshop.

(h) Based on above facts, the applicants prayed for following reliefs in terms of paragraph No. 21 of the O.A., which reads as follows:-

“(A) Original Application may kindly be allowed.

“(B) The impugned order issued by the respondent No. 4 dated 24.4.2020 at Annexure ‘A-4’ and all consequential orders issued at Annexure ‘A-5’ may kindly be quashed and set aside, by directing

respondent No. 4 to continue the applicants services as Driver, as before, to sub-serve the ends of justice.

(C) Pending hearing and final disposal of this application, the respondents may kindly be directed appropriately to continue the services of the applicants as Driver, by ordering to maintain the position before issuance of impugned order at Annexure 'A-4' by R-4 dated 24.4.2020 and consequential orders issued at Annexure 'A-5'.

(D) Any other suitable and equitable relief to which applicants are entitled to, may kindly be granted in their favour."

3. Respondents have filed affidavit in reply on 23.10.2020, copy of which was provided to the other side on 19.01.2021. Main points of submissions made by the respondents may be listed as follows:-

(a) The applicants were initially recruited as Armed Police Constables, which is distinguishable from Un-armed Police Constables.

(b) Those Armed Police Constables having motor vehicle license were temporarily posted in Motor Transport Section of respondent No. 4 i.e. the Commandant, State Reserve Police Force, Group No. III, Jalna till the order dated

20.04.2020. However, the applicants were not recruited in Driver cadre.

(c) All the applicants have been receiving Rifle Allowances till date. The applicants have been imparted regular firing practice. Therefore, their contention that they do not have practice of handling weapons is not true and correct.

(d) The respondents further contended that the transfer of the applicants from Motor Transport Section to Armed Constabulary has been ordered as per the provision / recommendation of Police Establishment Board.

4. As the respondents were asked vide order dated 12.10.2021 to clarify terminology of "Emergency Motor Vehicle Driver" (संकटकालीन मोटर चालक), "Regular Motor Driver" (नियमित मोटर चालक) used by them in internal communications while deputing someone as motor vehicle drivers and in case these terminologies signify separate cadres, then to place on record Recruitment Rules of Driver cadre for both the Temporary and Regular Driver. Accordingly, the respondent No. 2 has submitted affidavit in reply dated 15.11.2021 clarifying the background facts as required as follows:-

(a) The applicants have been originally appointed as Armed Police Constables in “SRPF”. However, the recruitment rules for the Constable have been framed under Section 5 (b) of the Maharashtra Police Act, 1957 in the year 2006. Thereafter, new recruitment rules framed in the year 2011 replaced the old rules.

(b) There are no provisions in the Police Constable Recruitment Rules of “SRPF” for absorption of members of constabulary in the so-called cadre of motor vehicle drivers nor is there any recruitment rule for recruitment as Police Drivers in “SRPF”. For selecting Police Constables for working as Driver Police Constables, 50 marks for examination of driving is taken with passing level of 35 marks. Candidates who pass the exam are sent for Physical Test. Home Department has not framed any rules as recruitment rules for ASI Driver, Police Head Constable Driver, Police Naik Driver and Police Constable Driver of SRPF even though the then Minister of State for Home Department, in an intra-departmental meeting of Home Department, had directed to take steps for creation of such posts in SRPF way back in the year 2015.

(c) As there is no separate cadre of Police Constable Driver / Police Naik Driver / Police Head Constable Driver/ ASI Driver, there is no question of absorbing the applicants in the cadre of Driver. Moreover, the applicants are getting rifle allowance regularly and undergoing armed training regularly. Therefore, it will not be possible to absorb the applicants in the non-existent cadre of Police Driver at their respective ranks.

5. The matter was listed for submission of written notes of arguments by the parties on 17.12.2021. However, none of the two sides have submitted any such written notes of arguments. Even the learned senior counsel for the applicant has not contested the clarifications provided by the respondent no. 2 vide affidavit in reply filed on his behalf.

6. **Conclusion:-** As stated by the respondent no. 2, there is no separate cadre of "Driver" in "SRPF" and as there is no separate recruitment or any other rules for assigning job of motor vehicle Driver exclusively to any member of armed constabulary in "SRPF" on permanent basis, and as these facts which have not been contested by the original applicants, in my considered

opinion, the Original Application is devoid of merit. Hence, following order is being passed :-

ORDER

- (A) The Original Application No. 372 of 2020 is, hereby, dismissed for the reason being devoid of any merit.
- (B) No order as to costs.

PLACE : AURANGABAD.
DATE : 24.12.2021

(BIJAY KUMAR)
MEMBER (A)

KPBS.B. O.A. No. 372 of 2020 BK 2021 transfer / posting