

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 459 OF 2018

(Subject – Transfer)

DISTRICT : DHULE

Shri Bhaidas s/o Dhoman Pawar,)
Age : 54 years, Occu. : Service)
(As Asst. Sub Inspector,)
Songir Police Station),)
R/o : Plot No. 46/B, Budhelal,)
Nagar, Shirpur, Dist. Dhule.) .. **APPLICANT**

V E R S U S

- 1) **The State of Maharashtra,**)
Through its Secretary,)
Home Department,)
Mantralaya, Mumbai -032.)
- 2) **The Superintendent of Police,**)
Dhule.)

.. RESPONDENTS

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

: Shri V.R. Bhumkar, Presenting Officer for the
Respondents.

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

DATE : 22.01.2019.

O R D E R

1. The applicant has challenged the order dated 31.05.2018 issued by the respondent No. 2, by which he has been transferred from Shripur Taluka Police Station to Songir Police Station by filing the present Original Application.

2. The applicant is belonging to S.T. category. He entered in the service in the year 1983 i.e. on 07.02.1983 as Constable in the Police Force. On 04.03.2003, he was promoted as Head Constable. Thereafter on 04.10.2014, he was promoted as Assistant Sub-Inspector (A.S.I.) and since then, he is working in the said cadre. He is due to retire w.e.f. 30.04.2022 on attaining the age of superannuation. In the year 2015 i.e. on 31.07.2015, when he was working at Sakri Police Station he has been transferred from Sakri Police Station to newly created Shripur Taluka Police Station by the respondent No. 2. In pursuance of the said order, he joined at Shripur Taluka Police Station on 07.08.2015 and since then, he was working there. He has hardly completed tenure of 2 years and 9 months at Shirpur Taluka Police Station. He was not due for transfer at the time of General Transfers of the year 2018. But the respondent No. 2 issued the impugned order dated 31.05.2018 and transferred him from Shirpur Taluka Police Station to Songir Police Station on the ground of ensuing elections of Dhule Municipal Corporation, Dhule Zilla parishad and Parliamentary Elections. It is his contention that the impugned order is in violations of the provisions of Maharashtra Police Act. The provisions of Section 22N (1 & 2) of the Maharashtra Police Act had not been considered by the respondent No. 2 while issuing the impugned

order of transfer. The impugned transfer is mid-tenure transfer and it has been issued by the respondent No. 2 illegally, arbitrarily, irrationally and illogically and therefore, he prayed to quash and set aside the impugned order by allowing the present Original Application.

3. The respondent No. 2 has resisted the contention of the applicant by filing his affidavit in reply. He has denied that the impugned order of transfer of the applicant is in violation of the provisions of the Maharashtra Police Act. He has not disputed the fact that the applicant has not completed his normal tenure of posting at Shirpur Taluka Police Station. It is his contention that the native place of the applicant is Waghadi, Tq. Shirpur, Dist. Dhule. Considering the ensuing elections of Dhule Municipal Corporation, Z.P. and Parliamentary elections and the guidelines issued by the Home Department, Government of Maharashtra vide G.R. dated 17.05.2017, the respondent No. 2 had taken conscious decision to transfer the police personnel, who are working in their native places/Talukas. The meeting of the Police Establishment at District Level has been held on 31.05.2018 and it was decided to transfer the police personnel who have completed their tenure, as well as, who have not completed their tenure, but residing at their native places as per

the G.R. dated 17.05.2017 and accordingly, the applicant has been transferred, as he was serving in his native Taluka. It is his contention that near about 105 employees who are serving at their native place had been transferred in order to avoid administrative inconvenience in ensuing elections of Dhule Municipal Corporation, Dhule Zilla parishad and Parliamentary Elections and accordingly, the impugned order has been issued. It is his contention that the decision to transfer of the applicant had been taken by the competent authority on account of administrative exigencies and in the public interest and there is no illegality in the impugned order. Therefore, he prayed to dismiss the present Original Application.

4. I have heard Shri A.S. Deshmukh, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents. I have perused the documents placed on record by both the parties.

5. Admittedly, the applicant joined the Police Force on 07.02.1983 as Constable. On 01.03.2003, he was promoted as Head Constable. He was again promoted as Assistant Sub-Inspector on 04.10.2014 and since then, he is working in the said cadre. Admittedly, the applicant has been transferred from Sakri Police Station to newly created Shripur Taluka Police

Station on 31.07.2015 and since then he is serving there till issuance of the impugned order. Admittedly, the applicant joined at Shripur Taluka Police Station on 07.08.2015. He has been transferred from Shripur Taluka Police Station to Songir Police Station by the impugned order dated 31.05.2018. Admittedly, the applicant is resident of village Waghadi, Tq. Shirpur, Dist. Dhule. There is no dispute about the fact that the applicant has not completed his normal tenure of posting at Shripur Taluka Police Station and he has hardly completed 2 years and 9 months at Shripur Taluka Police Station before his transfer by the impugned order. Admittedly, the applicant has been transferred before completion of his normal tenure of posting and his transfer is mid-tenure transfer.

6. Learned Advocate for the applicant has submitted that the applicant has not completed his normal tenure of posting at Shripur Taluka Police Station, but he has been abruptly transferred by the respondent No. 2 by the impugned order dated 31.05.2018 from Shripur Taluka Police Station to Songir Police Station. He has submitted that the impugned transfer has been made on the ground that the applicant's native place is Waghadi, Tq. Shirpur, Dist. Dhule and therefore, on the basis of guidelines given by the Home Department on

17.05.2007, the transfer of the applicant has been made. He has submitted that the reasons given by the competent transferring authority for transfer of the applicant are not just and proper and therefore, he prayed to allow the present Original Application. He has further submitted that the impugned transfer order is in violation of the provisions of Section 22N of the Maharashtra Police Act. The respondent No. 2 has not considered the provisions of Maharashtra Police Act with proper perspective. Therefore, he prayed to quash and set aside the impugned order on the ground that the impugned transfer order causes inconvenience to the applicant and his family members.

7. Learned Advocate for the applicant has further submitted that the impugned order is in violation of the provisions of Section 22N (1 and 2) of the Maharashtra Police Act and therefore, he prayed to quash and set aside the impugned order by allowing the present Original Application.

8. Learned Presenting Officer has submitted that the applicant is serving at Shripur Taluka Police Station since more than 2 years and 9 months and he is resident of Waghadi, Tq. Shirpur, Dist. Dhule. He has submitted that in view of the G.R. dated 17.05.2007, the Police personnel up to the rank of ASI cannot be posted in the Talukas where their native places are

situated and therefore, in view of the said guidelines, the respondent No. 2 has effected the transfer of the applicant out of his native Taluka. He has submitted that the elections of Dhule Municipal Corporation, Dhule Zilla parishad and Parliamentary are likely to be held in near future and therefore, on account of administrative exigencies and in the interest of public, the competent authority i.e. the Police Establishment Board at District Level decided to transfer applicant at Songir Police Station. He has submitted that the impugned transfer order has been issued in the public interest and on account of administrative exigencies by the competent transferring authority in view of the provisions of Section 22N of the Maharashtra Police Act and there is no illegality in it and therefore, he prayed to dismiss the present Original Application.

9. On perusal of the minutes of the meeting of the Police Establishment Board at District Level held on 31.05.2018, it reveals that the Police Establishment Board at District Level decided to transfer the Police personnel who were due for transfer, as well as, the Police personnel not due for transfer, but serving in their native Talukas' in view of the G.R. dated 17.05.2007. The issue regarding ensuing elections of Dhule Municipal Corporation, Dhule Zilla parishad and Parliamentary

has been considered and the Police Establishment Board decided to transfer the Police personnel who were serving in their native Talukas to other Police Station on account of administrative exigencies. Considering the information supplied to them they have decided to transfer the applicant from Shripur Taluka Police Station to Songir Police Station and accordingly, the impugned order has been issued. They have transferred as many as 105 Police personnel, who were serving in their native Talukas by the impugned order dated 31.05.2018.

10. On perusal of the guidelines given by the Home Department in the G.R. dated 17.05.2007, it reveals that the Government had decided to make transfer of the Police Personnel up to the rank of ASI out of their native Talukas and therefore, the Police Establishment Board at District Level took decision to transfer those Police Personnel including the applicant who were serving in their native Talukas and accordingly, the impugned order of transfer has been issued by the Police Establishment Board in view of the guidelines given in the said G.R. Moreover, the fact regarding ensuing elections of Dhule Municipal Corporation, Dhule Zilla parishad and Parliamentary and inconvenience of the administration had been taken into consideration while issuing the impugned order. The applicant

has been transferred on account of administrative exigencies and in the interest of public at large before completion of his normal tenure of posting at Shirpur Taluka Police Station. Therefore, in my view, there is no illegality in the impugned order dated 31.05.2018. The impugned order has been issued in view of the provisions of Section 22N (1) of the Maharashtra Police Act and there was sufficient compliance of the Section 22N (2) of the Maharashtra Police Act and the Police Establishment Board at District Level had decided to make such transfers. Therefore, in my view, there is no illegality in the impugned order. Hence, no interference at the hands of this Tribunal in the said order is required. There is no merit in the O.A. Hence, the O.A. deserves to be dismissed.

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

PLACE : AURANGABAD.
DATE : 22.01.2019.

(B.P. PATIL)
MEMBER (J)