

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD****ORIGINAL APPLICATION NO. 747 OF 2019
WITH
ORIGINAL APPLICATION NO. 948 OF 2019
(Subject – Posting / Transfer)****1. ORIGINAL APPLICATION NO. 747 OF 2019****DISTRICT : AURANGABAD**

Prashant Mukundrao Wayukar,)
 Age : 44 years, Occu. : Service as Head)
 Constable, in Govt. Railway Police)
 (GRP), Aurangabad,)
 R/o : C/o Shri J.A. Mogle, Plot No. P-4/8,))
 Gajraj Nagar, N-8, CIDCO, Aurangabad.) ... **APPLICANT**

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,))**
 (Railways), Churchgate Railway Station,))
 First Floor, Mumbai 400 020.)
- 3) **The Superintendent of Police, (Railways),))**
 Aurangabad.)
- 4) **The Superintendent of Police, (Railways),))**
 Nagpur.) .. **RESPONDENTS**

W I T H**2. ORIGINAL APPLICATION NO. 948 OF 2019****DISTRICT : AURANGABAD**

1. **Manohar Kashinath Mulmule,**)
 Age : 39 years, Occu. : Service as Police)
 Constable, in Govt. Railway Police (GRP,))
 Railway Police Station, Aurangabad,)
 R/o : Plot No. 38, Chaitanyeshwar Nagar,))
 Kharbi Road, Nagpur.)

2. **Devendra Manohar Rakesh,**)
Age : 31 years, Occu. : Service as Police)
Constable Control Room, in Govt. Railway)
Police (GRP), Railway Police Station,)
Aurangabad, R/o : Plot No. 448, Mowad,))
Tq. Narkhed, Dist. Nagpur-441303.)
3. **Vijay Prakash Shegaonkar,**)
Age : 32 years, Occu. : Police Constable in)
Railway Control Room in Govt. Railway)
Police (GRP), Railway Police Station, Aurangabad,))
R/o : Sant Kabir Nagpur Apatapa Road,))
Akola, Dist. Akola.)
4. **Puroshottam Bapurao Khiratkar,**)
Age : 34 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Aurangabad,)
R/o : F-5, Annabhau Sathe Marg,)
New Kailash Nagar, Nagpur.)
5. **Omprakash Bhimrao Vadatkar,**)
Age : 49 years, Occu. : Service as Head)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Nanded,)
R/o : Gopal Nagar, Near Rajeev Gandhi)
School, Amravati.)
6. **Ramesh Thamaji Bhalerao,**)
Age : 44 years, Occu. : Service as Head)
Constable, in Railway Police Station, (GRP),)
Parali-Vaijanath, Dist. Beed,)
R/o : Plot No. 240, Kukade Lay-out,)
Rameshwari Road, Nagpur-27.)
7. **Santosh Ramdas Kulmethe,**)
Age : 44 years, Occu. : Service as Police)
Naik, in Govt. Railway Police (GRP),)
Railway Police Station, Aurangabad,)
R/o : Ashta, Tq. Pombhurna,)
Dist. Chandrapur.)

- 8. Charansing Mohansing Rathod,**)
Age : 50 years, Occu. : Service as Police)
Naik, in Govt. Railway Police (GRP),)
Railway Police Station, Aurangabad,)
R/o : Saudagarpura, Behind Maroti Mandir,))
Daryapur, Dist. Amravati.)
- 9. Prashant Bhimrao Dhok,**)
Age : 36 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Aurangabad,)
R/o : Choube Layout, Near School No. 11,))
Katol, Dist. Nagpur – 441 302.)
- 10. Nitin Udaybhan Somkunwar,**)
Age : 40 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Shegaon, Dist. Akola,))
R/o : Guard Line, GRP Quarter No. M40/A,))
Nagpur.)
- 11. Sunil Baburao Budhe,**)
Age : 42 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Manmad,)
R/o : 23, Dhanwantari Nagar, Ramana)
Maroti Road, Nagpur-440 009.)
- 12. Yogesh Bhimrao Adkane,**)
Age : 42 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusaval,)
R/o : 134, Dhammanand Nagar Pille Nadi,))
Kamthi Road, Nagpur-440 026.)
- 13. Vilas Santosh Pantavne,**)
Age : 38 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Nasik Road,)
R/o : Chinchbhuwan, Post : Naya Kund,))
Tq: Parshivani, Dist: Nagpur-441 105.)

- 14. Gajendra Nandlal Tekam,**)
Age : 38 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusaval,)
R/o : Railway Police Mukhyalaya,)
Ajani Quarter N. 4/1, Nagpur.)
- 15. Ashwin Sharad Sahare,**)
Age : 38 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Manmad,)
R/o : Khalashi Line, Mohan Nagar, Nagpur.)
- 16. Babul Upasrao Warthi,**)
Age : 38 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusaval,)
R/o : Plot No. 14, Janki Nagar,)
Post Mhalgi Nagar, Nagpur-440 034.)
- 17. Suresh Rambhau Mahajan,**)
Age : 38 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Nanded,)
R/o : Sonoli, Tq. Katol, Dist. Nagpur-441302.)
- 18. Md. Akeel Ismail Shaikh,**)
Age : 38 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Aurangabad,)
R/o : Hanuman Nagar, Near Hanuman Temple,)
House No. 631, Wana Dongari,)
Tq. Hingana, Dist. Nagpur.)
- 19. Santosh Madhukar Ingle,**)
Age : 48 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusaval,)
R/o : Lokhande Layout, Mothi Umri,)
Dist. Akola - 444 005.)
- 20. Pankaj Sheshrao Bhange,**)
Age : 33 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Chalisgaon,)
R/o : Jaysing Layout, Panchawati, Katol,)
Dist. Nagpur - 441 302.)

- 21. Amar Suryakant Chaudhari,**)
Age : 30 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Aurangabad,)
R/o : Tuljai Nagar, Gargoti Parisar,)
Narsala, Dighori, Nagpur.)
- 22. Ashant Devrao Sorte,**)
Age : 34 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Shegaon,)
R/o : Plot No. 10, Rameshwari Ring Road,)
Shatabdi Chauk, Behind Lohar Samaj,)
Nagpur – 440 027.)
- 23. Mangesh Anil Kamilkar,**)
Age : 32 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusawal,)
R/o : Plot No. 2, In front of Motha Tajbag)
Gate, Harpur Nagar, Nagpur.)
- 24. Amit Vasanttrao Dhore,**)
Age : 32 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Nandurbar,)
R/o : Indira Nagar, Juni Wasti, Ranala,)
Tq. Kamthi, Nagpur.)
- 25. Sneha Gajanan Adkine,**)
Age : 30 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusawal,)
R/o : 40, Jay Bhim Nagar, Near Ramtek)
Library, Post. Bhagawan Nagar, Nagpur.)
- 26. Mahesh Ramlal Sen,**)
Age : 32 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Shegaon,)
R/o : Parvati Nagar, Nagpur – 441 027.)

- 27. Vijay Sukhdevrao Jawanjal,**)
Age : 31 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Shegaon,)
R/o : Plot No. 33, Pawan Nagar, Navi Wasti,))
Badnera, Dist. Amrawati.)
- 28. Sagar Prabhakarrao Pethe,**)
Age : 30 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Nanded,)
R/o : Gopal Nagar, Amrawati.)
- 29. Atish Panjabrao Yemde,**)
Age : 29 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Manmad,)
R/o : Tandulwadi, Post. Murti,)
Tq. Katol, Dist. Nagpur.)
- 30. Prashant Vinayak Mude,**)
Age : 28 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Manmad,)
R/o : Sindi Railway, Tq. Selu, Dist. Wardha.)
- 31. Ajay Rahul Moon,**)
Age : 32 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusawal,)
R/o : Kanha City-2, Thul Lay Out,)
Sindimighe, Tah. And dist. Wardha.)
- 32. Vanita Madhukarrao Bawane,**)
Age : 30 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusawal,)
R/o : Plot No. 168, Shrinagar,)
Manewada Road, Nagpur.)
- 33. Dhamraj Arun Masram,**)
Age : 30 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusawal,)
R/o : Agasti Marg, Zaduwadi, Pandurang)
Ward, Tah. Arvi, Dist. Wardha.)

- 34. Ritesh Bhaurao Waat ,**)
Age : 29 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Manmad,)
R/o : Plot No. 35, Kalmegh Nagar, Near)
C.R.P.F. Gate, Hingana, Dist. Nagpur.)
- 35. Dharmendra Atmaram Dhore,**)
Age : 29 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusawal,)
R/o : Ranala, Juni Wasti, Vitthal Rukmini)
Mandir, Tq. Kamthi, Dist. Nagpur.)
- 36. Piyush Purushottam Chawatkar,**)
Age : 31 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusawal,)
R/o : 36 Ramakrishna Nagar,)
Dighori Road, Nagpur.)
- 37. Nilesh Ashok Kusram,**)
Age : 31 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Manmad,)
R/o : Plot No. 40, Dwarkapuri,)
Rameshwari Road, Nagpur.)
- 38. Madhukar Bhagwan Rangari,**)
Age : 28 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusawal,)
R/o : Yashodhara Nagar, Near Bhoyar College,)
Ghorpad Road, Kamthi, Nagpur-441001.)
- 39. Gayatri Murlidhar Porte,**)
Age : 30 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusawal,)
R/o : Plot No. 26, Vasundhara Nagar, Bhusawal.)

- 40. Amarjeet Ramrao Dongre,**)
Age : 28 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Bhusawal,)
R/o : New Yerkheda, Kalmana Road,)
Savitribai Fule Nagar, Kamthi Road,)
Dist. Nagpur-441002.)
- 41. Praveen Sheshrao Barai,**)
Age : 35 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Chalisgaon,)
R/o : 89, Vaishali Nagar, Wankhede Layout,))
Hingana Road, Nagpur-440 016.)
- 42. Yashwant Harishchandra Gaikwad,**)
Age : 32 years, Occu. : Service as Police)
Constable, in Govt. Railway Police (GRP),)
Railway Police Station, Aurangabad,)
R/o : Plot No. 42, C/o Shri Vasudev Shirpurkar,))
Shriram Nagar, Uday Nagar Chowk,)
Ring Road, Nagpur-440024.)
- 43. Renuka Manoharrao Aade,**)
Age : 28 years, Occu. : Service as Police)
Constable, in Railway Police Station, (GRP),)
Parali- Vaijanath, Dist. Beed,)
R/o : Plot No. 112, Adivasi College,)
Tukadoji Chowk, Nagpur - 440024.)
- .. **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,**)
(Railways), Churchgate Railway Station,))
First Floor, Mumbai 400 020.)
- 3) **The Superintendent of Police, (Railways),**)
Aurangabad.)

4) **The Superintendent of Police, (Railways),**
Nagpur.)

.. RESPONDENTS

APPEARANCE : Shri Ajay Deshpande, Advocate for the
Applicants in both the O.As.

: Shri V.R. Bhumkar, Presenting Officer
for Respondents in both the O.As.

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

DATE : **03.12.2021.**

COMMON - ORDER

1. Because of similar nature of both these cases, both can be disposed of by this common judgment and order.

2. The present Original Applications are filed by invoking the jurisdiction of the Tribunal under Section 19 of the Administrative Tribunals Act, 1985 seeking directions against the respondent authorities to effect the transfer of the applicants from establishment of respondent No. 3 i.e. the Superintendent of Police (Railways), Aurangabad to appropriate establishment at Nagpur under respondent No. 4 i.e. the Superintendent of Police (Railways), Nagpur without loss of seniority.

3. The applicants are working in Police Constabulary on the establishment of respondent No. 3 i.e. the Superintendent of

Police (Railways), Aurangabad. The applicant in O.A. No. 747/2019 is working as Police Head Constable. In O.A. No. 948/2019, the applicant No. 5 is working as Police Head Constable and the applicant Nos. 7 and 8 are working as Police Naik, whereas, rest of the applicants in the said case are working as Police Constables. In both the cases, the respondent No. 4 i.e. Superintendent of Police (Railways), Nagpur is head of the establishment under whom the applicants want to get posting. The respondent No. 2 i.e. the Additional Director General of Police (Railways), Mumbai is at the helm of administration of Railway Police in the State, whereas, the respondent No. 1 i.e. the State of Maharashtra, through the Additional Chief Secretary, Home Department, Mumbai, is the supreme executive having overall regulatory control over the respondents and the applicants as well.

4. Prior to issuance of the G.R. dated 10.05.2018 (Annexure A-1 in O.A. No. 948/2019), there were three Railway Districts in the State of Maharashtra and they were Mumbai, Pune and Nagpur. The jurisdiction of transfer and posting of Police Constabulary up to the stage of Assistant Sub-Inspector of Police are within the respective Railway Police Districts only and inter-railway district transfers are not contemplated.

5. All the applicants originally hail from Vidarbha Region and especially Nagpur and nearby revenue districts. They are born and brought up in Vidarbha Region and they have rendered their services predominantly in Vidarbha Region. The respondent No. 1 by issuing G.R. dated 10.05.2018 (Annexure A-1 in O.A. No. 948/2019), created one more Railway District i.e. Aurangabad Railway District, Aurangabad, bifurcating original Nagpur Railway District. Newly created Railway District is having jurisdiction from Shegaon in Buldhana District up to Igatpuri in Nasik District. It is also extended to Nanded and Parli Vaijnath in Beed District.

6. It is specifically contended that the applicants have no grievance as regards creation of Aurangabad Railway District bifurcating erstwhile Nagpur Railway District, but according to them due to that no fair policy was evolved while deploying staff in those two districts and because of that, the applicants who have continued to be posted and are constrained to work in Aurangabad Railway District away from their family members, who are predominantly leaving in Vidarbha Region i.e. Nagpur district and other adjoining districts.

7. It is contended that as per the subsequent G.R. dated 16.02.2019, the Police Force available under the respondent No. 4 i.e. the Superintendent of Police (Railways), Nagpur came to be bifurcated and 743 posts have been created under the respondent No. 3 i.e. Superintendent of Police (Railways), Aurangabad. Accordingly, those incumbents who are eventually working at the place of their respective postings were continued under respective Railway Districts may be Nagpur Railway District or merely newly created Aurangabad Railway District. It resulted in retention of incumbents in Aurangabad Railway District, but who hail from Vidarbha Region and also incumbents posting under Nagpur Railway District, who hail from Marathwada Region. Because of that, the entire family of Police Constabulary suffered disturbance insofar as family arrangements are concerned.

8. After issuance of the G.R. dated 16.02.2019, the respondent No. 4 i.e. the Superintendent of Police (Railways), Nagpur, requested for applications from Police Officers and Constabulary for effecting transfers from (i) Nagpur Railway District to Aurangabad Railway District, (ii) Aurangabad Railway District to Nagpur Railway District, (iii) Aurangabad Railway District to Aurangabad Railway District and (iv) Nagpur Railway

District to Nagpur Railway District under communication dated 25.09.2018 (Annexure A-2). Pursuant to that, the applicants herein submitted individual representations seeking their transfers under Nagpur Railway District pointing out that their respective families are residing within the Nagpur Railway District all throughout their life and their children are undertaking education within the Nagpur Railway District. Annexure A-3 collectively is the collective information in that regard submitted by the respondent No. 3 to the respondent No. 4 for necessary action. However, the said representations of the applicants, who were compelled by the respondent No. 3 and submitted to the respondent No. 4, are not acted upon and they are not giving posting in Nagpur Railway District. No policy was involved to bring fore practical solution to cause minimum inconvenience to the Police Constabulary.

9. It is further contended that meanwhile, the respondent No. 4 as per the order dated 04.10.2018 (Annexure A-4 in O.A. No. 948/2019) and order dated 14.01.2019 (Annexure A-4 in O.A. No. 948/2019, page No. 36 of paper book) effected the transfers of 31 and 9 police officials respectively from Nagpur Railway Police to Aurangabad Railway Police. Further under order dated 23.05.2019 (Annexure A-5 in O.A. No. 948/2019), the

respondent No. 4 i.e. the Superintendent of Police (Railways), Nagpur issued allocation in terms of G.R. dated 16.02.2019 and posted, as many as, 484 incumbents from Police Constable to Assistant Police Sub-Inspector under respondent No. 3 i.e. the Superintendent of Police (Railways), Aurangabad. In the first phase, thereby deficit of man power with the respondent No. 3 i.e. the Superintendent of Police (Railways), Aurangabad is tried to be adjusted by posting junior-most incumbents by transferring them on administrative ground from Nagpur Railway District to Aurangabad Railway District. This formula ought to have worked out at or before issuance of the G.R. dated 10.05.2018. That could have saved inconvenience for the employees and such others Police officials. However, decisions in that regard are taken under the garb of the administrative convenience and thereby the applicants have continued to suffer. Hence, this Original Applications.

10. The affidavit in reply on behalf of respondent Nos. 1 to 3 in O.A. No. 948/2019 is filed by one Shri Vilas Sadashiv Narnawar, Deputy Superintendent of Police (Home), Railways Police, Aurangabad. At the outset, it is admitted that by G.R. dated 10.05.2018, erstwhile Nagpur District was divided into two districts i.e. Nagpur Railway District and Aurangabad Railway

District. It is further admitted that at or around same time some transfers were effected from Nagpur Railway District to Aurangabad Railway District and more especially after issuance of the G.R. dated 16.02.2019 much of the transfers are effected from Nagpur to Aurangabad. Vide order dated 23.05.2019 thereby 484 Police official were transferred from Nagpur Railway District to Aurangabad Railway District from the cadres of Assistant Police Sub-Inspector, Police Head Constable, Police Naik and Police Constable.

11. It is denied by these respondents that the transfer of Police Officials either from Nagpur Railway District to Aurangabad Railway District or *vis-a-versa* was done without following any criteria causing extreme inconvenience to the applicants and such other police officials. In fact, the applicants by the present Original Applications are seeking transfer only on the ground that their relatives are residing in Nagpur Railway District, which cannot be a valid ground for seeking transfer. In fact, the applicants duties stand at higher pedestal than the personal convenience or family convenience. The family is definitely important, but it cannot be placed ahead of duties of the police officials. In the circumstances, the O.As. are liable to be dismissed.

12. The affidavit in reply is filed on behalf of respondent No. 4 is filed by one Shri Wasudo S/o Mahadeorao Dabare, Police Inspector, in the office of Superintendent of Police, Railways, Nagpur, Dist. Nagpur i.e. the respondent No. 4, thereby adverse contentions raised by the applicants about their postings in Aurangabad Railway District causing inconvenience to them is denied. It is specifically contended that in the erstwhile Nagpur Railway District there were total number of 1429 posts on its establishment. As per the G.R. dated 16.02.2019 (page No. 83 of paper book), 743 posts were abolished therefrom and were allocated to newly created Aurangabad Railway District. In order to comply the said G.R. dated 16.02.2019, the office of respondent No. 2 i.e. the Additional Director General of Police (Railways), Mumbai, vide letter dated 07.03.2019 (Page No. 90 of paper book) directed this respondent to take appropriate action regarding shifting of posts of Assistant Sub-Inspector of Police to Police Constable from the office of respondent No. 4 to the office of respondent No. 3. The various steps were taken from time to time. For that purpose, even willingness of the Police Officials were called for from all the officials working in the erstwhile Nagpur Railway District, which is bifurcated into the Nagpur Railway District and Aurangabad Railway District for shifting

within the said two Railway Districts and also shifting at each other district. In view of the same, deployment of the staff is done by following fair procedure. Now there are no vacant posts in Nagpur Railway District to absorb the candidates from Aurangabad Railway District. In view of the same, it is further specifically contended that the applicants since prior to bifurcation of Nagpur Railway District are deployed in the Aurangabad Region. It is not disputed that prior to issuance of the G.R. dated 10.05.2018, the applicants were working under the control of the respondent No. 4 i.e. Superintendent of Police (Railways), Nagpur. However, after bifurcation they have to work as and when they are posted. Apart from that the respondent has raised preliminary objection of non-maintainability of the Original Application No. 948/2019 contending that the applicants cannot file O.A. commonly, as they are having separate cause of action. No common representation was made by them before filing of the present Original Applications. In view of the same, the Original Applications deserve to be dismissed.

13. Affidavit in rejoinder is filed on behalf of the applicant to counter the adverse contentions raised in the affidavits in reply. It is specific contention of the applicants that the approach of the respondents is not judicious. It is specifically contended that

after issuance of the G.R. dated 10.05.2018, the respondent No. 4 has transferred as many as 7 Head Constables, 16 Police Naiks including 5 lady Police Naiks from Nagpur Railway District to Aurangabad Railway District by the order dated 29.06.2019 (Page No. 98 of paper book of O.A. No. 948/2019), by this order for the first time they are posted in Aurangabad District. Moreover, by further orders issued by the respondent No. 2 on 17.12.2019, 30.01.2020, 31.08.2020 and 28.10.2020 some more 20 police officials from the cadre of Assistant Sub-Inspect to Police Constable are transferred from Aurangabad Railway District to Nagpur Railway District under the garb of requests, totally ignoring the representations of the present applicants made by them at the instance of the response of the respondents in the year 2019. Hence, the respondents have accommodated so called blue eyed persons causing injustice to the applicants, whose requests for transfer were pending before they are supposedly request. In view of the same, the approach of the respondent in deploying the police officials staff in Aurangabad Railway District is totally arbitrary and by giving appropriate directions to the respondents to frame policy of shifting the applicants from Aurangabad Railway District to Nagpur Railway District.

14. In Original Application No. 747/2019, the affidavit in reply on behalf of respondent No. 3 is filed by one Shri Vilas S/o Sadashiv Narnawar, Deputy Superintendent of Police (Home), Railways Police, Aurangabad, though in the caption thereof it is wrongly mentioned as “on behalf of respondent No. 4”. He has raised similar contentions as raised by him in the reply filed on behalf of respondent nos. 1 to 3 in O.A. No. 948/2019.

15. Affidavit in rejoinder is filed by the applicant in O.A. No. 747/2019 raising similar contentions as of affidavit in rejoinder filed by him in O.A. No. 948/2019.

16. No specific affidavit in reply is filed on behalf of respondent No. 4 in O.A. No. 747/2019. However, affidavit in sur-rejoinder is filed on behalf of respondent No. 4 by one Shri Vikas Anand Kanpillewar, Police Inspector working in the office of the Superintendent of Police, Railways Police, Nagpur, District Nagpur and further two short affidavits are filed by him raising same contentions as of contentions raised in the affidavit in reply filed on behalf of respondent No. 4 in O.A. No. 948/2019 by one Shri Wasudo S/o Mahadeorao Dabare, Police Inspector working in the office of Superintendent of Police, Railways, Nagpur, Dist. Nagpur i.e. the respondent No. 4.

17. Similarly, short affidavit is filed in O.A. No. 747/2019 on behalf of respondent Nos. 2 and 3 by one Shri Dilip Ziparu Gadhari, Police Inspector and In-charge Deputy Superintendent of Police (Home), Aurangabad Railways, Aurangabad. In this short affidavit it is explained by him that G.R. dated 26.10.2017 (Exhibit R-1) issued by the respondent No. 1 would be applicable for inter district transfers of Maharashtra Police as well as Railway District Police. Hence, the subsequent transfers issued by the respondent No. 2 inter-district in Railway Police are pursuant to the said G.R. and are in accordance with law. As per the said G.R., such transfers are effected on the ground mentioned in the said G.R. such as seniority, couple benefits, serious medical reasons by considering the vacancies. In view of the same, those transfers, which are referred to by the applicants in the rejoinder affidavit are justified being made following rules and regulations.

18. I have heard the arguments advanced by Shri Ajay Deshpande, learned Advocate for the applicants in both the Original Applications and Shri V.R. Bhumkar, learned Presenting Officer for the respondents in both the Original Applicants.

19. At the outset, the learned Advocate for the applicants has strenuously urged before me that in these cases the transfers are

sought from one Railway District to another Railway District and as per the rules, if the transfers are effected on request, the incumbents would lose their seniority. If the transfer is effected on administrative ground, losing of seniority would not come into picture. However, considering the hardships suffered by the applicants, the applicants are ready to forego their seniority, in case they are ordered to be transferred from Aurangabad Railway District to Nagpur Railway District.

20. Learned Advocate for the applicants further submitted that when mass order dated 23.05.2019 (Annexure A-9 of O.A. No. 747/2019) was passed transferring 484 police officials from Nagpur Railway District to Aurangabad Railway District, the criteria of junior persons was applied. Had the said criteria been adhered to at the time of deployment of the applicants in Aurangabad Railway District at or around the time of bifurcating Railway Districts, no injustice would have been caused to the applicants. However, that did not happen. In view of the same, deployment of police officials causing minimum injustice should have been criteria at the time of bifurcation of erstwhile Nagpur Railway District. That did not happen. Bifurcation of Railway District was not the usual thing and in a way that was the extraordinary situation and as such, consequential arrangement

should have been made by taking extraordinary measures, more particularly by laying down some policy and principles. Alternatively he submitted that considering the total number of applicants, who are in all 43 applicants in O.A. No. 948/2019 and only one applicant in O.A. No. 747/2019, the respondents can work out practical judicious solution to accommodate them in Nagpur Railway District on all types of vacant posts. In such circumstances, the applicants are ready to forego their seniority.

21. As against this the learned Presenting Officer for the respondents while opposing the submissions made on behalf of the applicants strenuously urged before me that due care was taken while deployment of staff after bifurcation by G.R. dated 10.05.2018 from time to time by calling options from all the relevant incumbents from Nagpur Railway District and Aurangabad Railway District for accommodating them in the same district or transfer from one district to another district. Even criteria of junior most are applied for deploying 484 incumbents from Nagpur to Aurangabad Railway District. The due care has been taken to cause minimum inconvenience to the candidates. The action followed by the respondents is just and proper in given circumstances. Family convenience cannot be criteria for effecting the transfers, when the transfer is an

incidence of service. In the circumstances, according to him there is no merit in both the Original Applications and the same are liable to be dismissed.

22. After having considered the rival pleadings and submissions made on behalf of both the parties, the undisputed facts which may emerge are that some of the applicants in O.A. No. 948/2019 were already working in the area covering newly created Aurangabad Railway District before bifurcation of erstwhile Nagpur Railway District as per the G.R. dated 10.05.2018 and some of them were so posted around the time of said bifurcation. The applicant in O.A. No. 747/2019 is posted at his present posting in Aurangabad Railway District as per the transfer order dated 30.06.2018 effected on administrative ground. The name of the applicant in the said order is at Sr. No. 26. Hence, his order of transfer is necessarily issued after issuance of the G.R. dated 10.05.2018 bifurcating erstwhile Nagpur Railway District.

23. It is further undisputed fact that after bifurcation, the respondent No. 4 i.e. the Superintendent of Police (Railways), Nagpur by communication dated 25.09.2018 (Annexure A-2 of O.A. No. 948/2019) invited the applications for convenient

postings from incumbents working under the respondent No. 3, as well as, respondent No. 4. The applicants in both these cases submitted their applications requesting their transfer from Aurangabad Railway District to Nagpur Railway District. Moreover, erstwhile Nagpur District was bifurcated vide G.R. dated 10.05.2018 (Annexure A-1 in O.A. No. 948/2019), creation of posts on separate establishment was done by the G.R. dated 16.02.2019 (part of Annexure A-5 collectively in O.A. No. 948/2019) allocating 743 posts on the establishment of respondent No. 3 i.e. the Superintendent of Police (Railways), Aurangabad and subsequently, the respondent No. 4 by the order dated 23.05.2019 (part of Annexure A-5 collectively in O.A. No. 948/2019, page No. 44 of paper book) deployed in or about 484 police officials from the cadre of Assistant Police Sub-Inspector to Police Constable from Nagpur Railway District to Aurangabad Railway District.

24. It is the contention of the applicants that this deployment of the police officials vide order dated 23.05.2019 was done on the basis of junior most officers being transferred it was made applicable at the time of transfer of those police officials at or around officials by the G.R. dated 10.05.2018 bifurcating erstwhile Nagpur Railway District into present Nagpur Railway

District and Aurangabad Railway District. According to them, had this criteria been implemented if at that stage less inconvenience would have been caused to those who have been working in Aurangabad Railway District away from their hometown and family members.

25. By filing rejoinder affidavit, the applicants have demonstrated that about 20 police officials in the different cadre of Assistant Police Sub-Inspector to Police Constable are being transferred subsequently on requests by the orders dated 17.12.2019, 30.01.2020, 31.08.2020 and 28.10.2020, which orders are on record with the affidavit in rejoinder filed by the applicants in O.A. No. 948/2019. According to the applicants, before that the request applications made by the applicants were submitted by the respondent No. 3 to the respondent No. 4 under communication dated 26.09.2018 (Annexure A-3 in O.A. No. 948/2019). However, the said requests of the applicants were not considered and adopting pick and choose policy, the respondent No. 2 transferred other police officials on request by wrongly exercising powers vested in him. However, in short affidavit filed on behalf of respondent No. 4, it is sought to be explained that the said subsequent transfers were effected in accordance with law and more particularly in view of the criteria

laid down in the G.R. dated 26.10.2017, which include the grounds of seniority, couple benefit, serious medical reasons etc. However, transfer orders thereof placed on record are different and those are various orders issued in the year 2021 and those documents are produced as Exhibit R-2 and R-3 at page Nos. 95 to 104 of paper book in O.A. No. 747/2019.

26. In view of above, it is prima-facie, shown by the applicants that while making some request transfers as stated in the rejoinder affidavit filed by the applicants in O.A. No. 948/2019, the respondents considered the requests of some candidates seeking transfer from Aurangabad Railway District to Nagpur Railway District ignoring the request applications of the applicants. The said request transfers are effected without affecting the seniority, as there is no mention of it in those orders dated 17.12.2019, 30.01.2020, 31.08.2020 and 28.10.2020. From this, it can be held that the applicants have been discriminated by the respondent authorities while making those request transfers. The request transfers therein do not refer to criteria of G.R. dated 26.10.2017, as sought to be made out by the respondents.

27. Initially, the applicants sought relief of direction against the respondents to effect the transfer of the applicants from respondent No. 3 i.e. Aurangabad Railway District to appropriate establishment at Nagpur under respondent No. 4 without loss of seniority. During the course of arguments, learned Advocate for the applicants submitted that the applicants are ready to forego their seniority for effecting such transfers.

28. Considering the facts of the present cases, it can be seen that no doubt the respondents have come out with a case that the applicants transfer being inter-district transfer would be governed by the relevant G.R. dated 26.10.2017, situation in the present cases is somewhat of peculiar and extraordinary nature where the erstwhile Nagpur Railway District was bifurcated in present Nagpur Railway District and Aurangabad Railway District. It is a fact that some 20 transfers are effected during the period of June, 2019 to December 2019 keeping aside parameters of the inter-district transfer G.R. dated 26.10.2017. It is not known what prevented the respondents at that point of time to consider the requests made by the applicants, who are in all of about 44 in numbers. No doubt, the statement is made on behalf of respondents that there are no sufficient posts vacant in Nagpur Railway District to accommodate the applicants. In the

circumstances, in my considered opinion, it is incumbent upon the part of the respondents to take some extraordinary measures in accordance with law to accommodate all the applicants in Nagpur Railway District in time bound manner and phase wise. That is to be done by the respondents by taking into administrative convenience of both the districts viz. Nagpur Railway District and Aurangabad Railway District. In view of the same, in my considered opinion, the present Original Applications can be disposed by giving suitable directions to the respondents. I therefore, proceed to pass following order :-

ORDER

The Original Application Nos. 747/2019 and 948/2019 are hereby allowed partly in following terms.

- (i) The respondents are directed to consider the request applications made by the applicants for their transfer from Aurangabad Railway District to Nagpur Railway District way back in September, 2018, in accordance with law giving precedence to them and keeping in view their respective maximum to minimum tenure in newly created Aurangabad Railway District at the

earliest, when the applicants are ready to forego their claim of seniority.

(ii) There shall be no order as to costs.

PLACE : AURANGABAD.
DATE : 03.12.2021.

(V.D. DONGRE)
MEMBER (J)

KPB S.B. O.A. Nos. 747/2019 with 948 of 2019 APK 2021 Posting / Transfer