

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

ORIGINAL APPLICATION NO. 806 OF 2023

DISTRICT : JALNA

1. **Sunil s/o Raghunath Mamilwad,**)
Age : 30 years, Occupation : Police Constable,)
R/o. Kharatwadi, Tq. Hadgaon,)
Dist. Nanded.)
2. **Shivaji s/o Daulatrao Bahirwad,**)
Age : 32 years, Occupation : Police Constable,)
R/o. Chaudawar, Tq. Purna,)
Dist. Nanded.)

.... **APPLICANTS**

V E R S U S

1. **The State of Maharashtra,**)
Through its Secretary,)
Home Department, Maharashtra State,)
Mantralaya, Mumbai.)
2. **The Superintendent of Police,**)
Superintendent Office, Parbhani,)
Tq. and Dist. Parbhani.)
3. **The Superintendent of Police,**)
Superintendent Office, Jalna,)
Tq. and Dist. Jalna.)
4. **The Police Commissioner,**)
Office of Greater Bombay, Crawford Market,)
Lokmanya Tilak Road, Chatrapati Shviaji)
Terminus Area, Fort, Mumbai,)
Tq. and Dist. Greater Bombay.)
5. **Shalini Laxman Pawar,**)
Age : Major, Occ. : Police Constable,)
R/o working at Superintendent of Police,)
Office at Parbhani, Tq. & Dist. Parbhani.)

6. **Pappu Ramsing Kale,**)
 Age : Major, Occ. : Police Constable,)
 R/o working at Superintendent of Police,))
 Office at Parbhani, Tq. & Dist. Parbhani.)
7. **Sanju Hari Kale,**)
 Age : Major, Occ. : Police Constable,)
 R/o working at Superintendent of Police,))
 Office at Parbhani, Tq. & Dist. Parbhani.)
8. **Balaji Baliram Jawade,**)
 Age : Major, Occ. : Police Constable,)
 R/o working at Superintendent of Police,))
 Office at Parbhani, Tq. & Dist. Parbhani.)

... **RESPONDENTS**

APPEARANCE : Shri Dhananjay Mane, counsel holding for Shri
 Nagesh Talekar, Counsel for Applicants.

: Shri M.P. Gude, Presenting Officer for
 respondent authorities.

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)

DATE : 19.01.2024

ORAL - ORDER

1. Heard Shri Dhananjay Mane, learned counsel holding for Shri Nagesh Talekar, learned counsel appearing for the applicants and Shri M.P. Gude, learned Presenting Officer appearing for respondent authorities.

2. The present Original Application is disposed of with the consent of parties at the admission stage.

3. By filing the present Original Application, the applicants are seeking direction against the respondent authorities to issue the inter district transfer order pursuant to their representations submitted to the respondent authorities in terms of the guidelines laid down in the Government Resolution dated 26.10.2017 and further since during pendency of the present Original Application the Police Establishment Board has deleted the names of the applicants from the waiting list prepared for inter district transfer, by way of amendment the applicants are also seeking quashing and setting aside the order dated 20.10.2023 passed by the Police Establishment Board deleting the name of the applicant from the waiting list prepared for inter district transfer.

4. Facts in brief as stated by the applicant giving rise to the Original Application are as follows :-

(i) The applicants were appointed on the post of Police Constable. The applicant No. 1 is working at Greater Bombay, whereas the applicant No. 2 is working at Jalna. The applicant No. 2 has submitted application dated 03.07.2020 (Annexure A-2) to the office of Superintendent of Police, Jalna for his inter district transfer on the ground

that his parents are suffering from various ailments and they required continuous follow up medical treatment. Similarly, the applicant No. 1, who is discharging his duties at Greater Bombay, has submitted an application in the year 2017 (Annexure A-3) for inter district transfer on the ground of couple convenience as his wife is also serving as Police Constable at Dahitna Police Station, Tq. Gangakhed, Dist. Parbhani. Both the applicants are hailing from Parbhani District and as such, by separate representations as mentioned above, they have requested for inter district transfer.

(ii) On scrutiny of the applications submitted by the applicants and after verifying the facts, the respondent No. 2 i.e. the Superintendent of Police, Parbhani has submitted proposal dated 07.02.2023 with the concerned Superintendent of Police with whom the applicants are working with a request to relieve them to join at their respective transfer places. In terms of the said communication dated 07.02.2023, there are 04 posts vacant, which are reserved for S.T. category at Parbhani District. The respondent authorities have prepared the waiting list for the purpose of granting the benefit of inter-

district transfer. The name of applicant No. 1 stands at Sr. No. 1 from S.T. category and as far as application No. 2 is concerned, his name stands at Sr. No. 6 in the said seniority list.

(iii) It is further case of the applicants that transfer orders have been issued in favour of respondent Nos. 5 to 8, thereby granting benefit of inter district transfer by superseding the claim of the applicants for inter district transfer. It is further case of the applicants that their claim for inter district transfer came to be denied solely on the ground that both the applicants have not submitted the Tribe Validity Certificate.

(iv) It is further case of the applicants that during pendency of the present Original Application, the Police Establishment Board (hereinafter called as 'Board') had conducted the meeting on 03.10.2023 and decided that the name of the applicants shall be deleted from the waiting list prepared for inter district transfer on the ground that they have not submitted the Tribe Validity Certificate. The said decision was taken by the Board vide its order dated 20.10.2023. Hence, the present Original Application.

5. Learned counsel for the applicants submits that there is no precondition of filing of Tribe Validity Certificate for claiming inter district transfer in terms of G.R. dated 26.10.2017. Learned counsel submits that both the applicants have fulfilled all the conditions, which are necessary to consider their claim for inter district transfer as per the G.R. dated 26.10.2017.

6. Learned counsel for the applicants submits in the identical set of facts, this Tribunal in **O.A. No. 349/2022 (Sahebrao S/o Sheshrao Pallewad Vs. The State of Maharashtra and Ors.)** decided on 14.07.2022, has observed that submission of Caste Validity Certificate is not precondition in terms of the G.Rs. laid down guidelines for inter district transfer.

7. In a case **Kailas Pralhad Yarmurwad Vs. The State of Maharashtra and Ors. in T.A. No. 08/2022 (W.P. No. 3060/2022)**, decided on 24.01.2023, this Tribunal has again passed the same order for the similarly situated person to consider their inter district transfer in terms of the view earlier taken in O.A. No. 349/2022. Learned counsel for the applicants submits that he present Original Application deserves to be allowed by giving appropriate directions to the respondents.

8. The respondent Nos. 1 to 3 have filed their affidavit in reply. On the basis of their affidavit in reply, learned Presenting Officer (for short P.O.) submits that contents of para No. 6(IV) are admitted to the extent that after scrutinizing the applications, the respondent No. 2 had issued the proposal dated 07.02.2023 with the concerned Superintendent of Police with whom the applicants are working and they are supposed to be relieved from the services so as to join at their respective transfer place. Learned P.O. submits that name of both the applicants mentioned in the waiting list in respect of S.T. category, however, both of them have not submitted Tribe Validity Certificate as per the guidelines laid down in the G.R. dated 26.10.2017.

9. Learned Presenting Officer on the basis of additional affidavit in reply filed on behalf of respondent No. 2 submits that during pendency of the present Original Application in order to bring subsequent events and developments to the notice of this Tribunal, the additional affidavit in reply is filed. Learned P.O. submits that the Police Establishment Board had taken a decision in its meeting on 03.10.2023 and disqualified the applicants for inter district transfer and subsequently removed their names from waiting list of S.T. category. Learned P.O. submits that the Board has passed the said order solely on the

ground that both the applicants do not possess Tribe Validity Certificate and in view of the same, their names have been removed from the waiting list prepared for inter district transfer. Learned Presenting Officer submits that there is not substance in the present O.A. and the same is liable to be dismissed.

10. In the alternate, learned Presenting Officer submits that the claim of the applicants may be considered in the General Transfers of the year 2024 and it is a matter of only few months to wait for General Transfers. Learned P.O. submits that if the appropriate directions are given, the respondent authorities may consider the inter district transfer of the applicants in the General Transfers of the year 2024.

11. It appears that the applicants claim seeking inter district transfer has been denied solely on the ground that they have not produced the Tribe Validity Certificate. On careful perusal of the G.R. dated 26.10.2017, this precondition is not mentioned at all in clause No. 2, which prescribes eligibility criteria for inter district transfer. It appears that both the applicants have fulfilled the said eligibility criteria. Both the applicants do have permanency certificate. The applicant No. 2 has submitted his representation for inter district transfer on the

ground that his parents are suffering from various ailments, whereas the applicant No. 1 has submitted representation for inter district transfer on the ground of couple convenience since his wife is working as Police Constable in Parbhani District at Dahitna Police Station, Tq. Gangakhed, Dist. Parbhani. Both the applicants are though hailing from different villages, but from the same district i.e. Parbhani District. In Clause No. 2 of the G.R. dated 26.10.2017 there is no condition in the eligibility criteria to the effect that if the Government servant is seeking inter-district transfer and if he happened to falls in SC or ST category, then submission of Caste/Tribe Validity Certificate is necessary.

12. In **O.A. No. 349/2022 (Sahebrao S/o Sheshrao Pallewad Vs. The State of Maharashtra and Ors.)** decided on 14.07.2022, this Tribunal in the identical facts has taken the similar view and in para Nos. 13 & 16 and made the following observations:-

“13. In the said G.R. there is no mention that the documents of Caste Certificate or Caste Validity Certificate being required for issuance of permanency certificate. In this regard, the respondent No.2 i.e. the Superintendent of Police, Nanded has placed reliance on G.R. dated 19.09.2017, which stipulates Caste Validity Certificate is one of the documents necessary for issuance of permanency certificate to the Government Servant. It is, however, pertinent to note that the applicant has already granted permanency certificate as on 14.12.2016, was there was no requirement of Caste Validity Certificate. That apart, the applicant has produced on record the documents dated

22.10.2013 (Exh. 'A-5') addressed by the office of the respondent No.3 i.e. the Superintendent of Police, Beed to the requisite authority namely Caste Scrutiny Committee, Aurangabad for getting verified Caste Certificate of the applicant.

16. In such circumstances as above, it is crystal clear that the respondent No.3 i.e. Superintendent of Police, Beed while issuing inter –district transfer order dated 16.03.2022 (Exh. 'A-4') to the extent of the applicant has taken care of all the requirements, necessary for inter-district transfer in accordance with G.R. dated 26.10.2017 (Annex. 'A-3'). As per this G.R., the requirement of permanency certificate and eight years service are necessary factors amongst others. In such circumstances, there was no valid reason for the respondent No.2 i.e. the Superintendent of Police, Nanded to refuse to allow the applicant to join his duties in accordance with transfer order dated 16.03.2022 (Exh. 'A-4') issued in accordance with law by the respondent No.3 i.e. the Superintendent of Police, Beed. By the impugned communication dated 22.03.2022 (Exh. 'A-6'), the respondent No.2 i.e. the Superintendent of Police, Nanded without any valid reason has frustrated the order of inter-district transfer to the extent of the applicant. In view of same, the said impugned order/communication dated 22.03.2022 (Exh. 'A-6') issued by the respondent No.2 i.e. the Superintendent of Police, Nanded is liable to be quashed and set aside being not sustainable in the eyes of law and consequently the applicant shall be entitled for issuances of necessary direction.”

13. Even in a case **Kailas Pralhad Yarmurwad Vs. The State of Maharashtra and Ors. in T.A. No. 08/2022 (W.P. No. 3060/2022)**, decided on 24.01.2023, this Tribunal has again taken a similar view in terms of the view earlier taken in O.A. No. 349/2022.

14. It is another pertinent and also surprising that even though the respondent authorities are knowing well about the earlier view taken by this Tribunal for filing Caste / Tribe Validity

Certificate for claiming inter district transfer, during pendency of the present Original Application, the Police Establishment Board has taken adverse decision deleting the names of the applicants from the waiting list prepared for inter district transfer.

15. Learned Presenting Officer has made alternate submissions that the inter district transfer of the applicants can be considered in the Annual General Transfers of the year 2024. However, I do not find any substance in the same, since the said alternate submissions are without any instructions and consequently, the learned P.O. is unable to reply the query of this Tribunal that in case if the same issue is crop up, then whether the respondents are ready to forgo the requirement of filing of caste/Tribe validity certificate for inter district transfer.

16. In view of above discussions, the present Original Application deserves to be allowed with costs. Hence, the following order :-

ORDER

- (i) The Original Application No. 806/2023 is hereby allowed.
- (ii) Order dated 28.10.2023 passed by the Police Establishment Board, thereby deleting the names of

the applicants from the waiting list prepared for inter district transfer is hereby quashed and set aside.

- (iii) The respondent authorities are directed to issue transfer orders pursuant to the representations submitted by the applicants to the respondent authorities in view of the guidelines as laid down in the G.R. dated 26.10.2017 within a period of one month from the date of this order.
- (vi) The respondent authorities shall pay the costs of Rs. 10000/- each to both the applicants within a period of one month from the date of this order.
- (v) The Original Application is accordingly disposed of.

PLACE : Aurangabad.

DATE : 19.01.2024

(Justice V.K. Jadhav)

Member (J)