

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 919 OF 2019
(Subject – Transfer)**

DISTRICT : OSMANABAD

Shri Shesherao s/o Vyankat Adatrao,)

Age : 58 years, Occu. : Service,)

R/o : Shivaji Nagar, Sanja Chowk,)

Osmanabad, Tq. and Dist. Osmanabad.)

.. APPLICANT

V E R S U S

1) **The State of Maharashtra,**)
Through the Chief Secretary,)
Home Department,)
Mantralaya, Mumbai.)

3) **The Director General of Police,**)
Maharashtra State Police)
Headquarter, Shahid Bhagat Singh)
Marg, Colaba, Mumbai – 400 001.)

3) **The Superintendent of Police,**)
Superintendent Police Office,)
Osmanabad, Dist. Osmanabad.)

.. RESPONDENTS

APPEARANCE : Shri E.S. Murge, Advocate for the Applicant.

: Smt. Priya R. Bharaswadkar, Presenting
Officer for Respondents.

CORAM : **B.P. PATIL, ACTING CHAIRMAN.**

RESERVED ON : **16.01.2020.**

PRONOUNCED ON : **20.01.2020.**

O R D E R

1. The applicant has challenged the order dated 29.05.2019 issued by the respondent No. 2 thereby transferring

him from Osmanabad to Nagpur City by filing the present Original Application and prayed to quash and set aside the same and prayed to directed the respondent Nos. 2 and 3 to retain him at Osmanabad till his retirement i.e. till the end of February, 2020.

2. The applicant is residing at village Karajkheda Tq. and Dist. Osmanabad. He was initially appointed as Police Constable. In the year 2003, he was selected to the post of Police Sub Inspector and thereafter, he was promoted on the post of Assistant Police Inspector. In the month of November 2017, he has been transferred from Beed to Osmanabad and posted at Police Control Office, Osmanabad and since then he was working there. He has rendered service at Osmanabad for about 18 months. He has not completed his normal tenure of posting at Osmanabad, but the respondents have issued the impugned order dated 29.05.2019 and transferred him from Osmanabad to Nagpur City. It is contention of the applicant that the said transfer order is in violation of the provisions of the Maharashtra Police Act. It is his contention that his mother is old aged and ill. He is also suffering from heart disease, but the respondents had not considered the said facts and made his transfer at Nagpur City. It is his contention that he is on the verge of retirement

and he is going to retire by the end of February, 2020, but the respondents had not considered the said aspect. It is his contention that he has made representation with the respondents to cancel his transfer order on account of his ill health and ill health of his mother, but the respondents had not considered the said aspect. It is his contention that the impugned order is issued without recording the reasons and therefore, he has prayed to quash and set aside the impugned by allowing the present Original Application.

3. The respondent Nos. 2 and 3 have filed their affidavit in reply and resisted the contentions of the applicant. They have admitted the fact that the applicant was initially appointed as Police Constable on 01.06.1982. Thereafter, he was promoted on the post of P.S.I. on 30.01.2010. They have admitted the fact that the Osmanabad is Home District of the applicant and his date of retirement is 29.02.2020. It is their contention that the applicant served at Beed as ad-hoc P.S.I. during the period from 14.06.2003 to 25.05.2010 and thereafter, he was served at Aurangabad Rural during the period from 05.06.2010 to 29.01.2010. Thereafter on promotion on the post of P.S.I. he was served at Aurangabad Rural during the period from 30.01.2010 to 07.11.2015. On promotion as A.P.I. he served at Beed during

the period from 09.12.2015 to 31.05.2016 and 14.09.2016 to 13.11.2018 and at Osmanabad from 16.11.2017 to 02.06.2019. He was transferred to Osmanabad and served there up to 02.06.2019. He has been relieved from the post of A.P.I., Osmanabad on 03.06.2019, but he has not joined his new posting at Nagpur City till today. It is their contention that the applicant worked for more than 16 years at Aurangabad Range. On 12.03.2019, the Circular has been issued by the respondents calling information for effecting the General Transfers for the year 2019 for the post of Unarmed P.S.Is. up to the Unarmed P.Is. in the State of Maharashtra on three counts i.e. (i) who have completed their normal tenure, (ii) who have not completed their normal tenures but want mid-tenure transfer on request and (iii) mid-tenure transfer on the basis of adverse grounds. The S.P. Osmanabad accordingly submitted report on 30.03.2019 and the name of the applicant was included accordingly in the said information. Thereafter, the information has been placed before the Police Establishment Board No. 2 (in short P.E.B. No. 2), who is competent transferring authority for effecting the General Transfers and Mid-tenure transfers up to the rank of P.I. in view of the provision of Section 22N(1) of the Maharashtra Police Act. The meeting of the P.E.B. No. 2 has been held on 29.05.2019.

After considering the cases of each of the employees, they have decided to transfer the employees. They have decided to transfer the applicant on administrative ground and accordingly, the transfer order of the applicant has been issued. It is their contention that the transfer of the applicant has been made in accordance with the provisions of Section 22N of the Maharashtra Police Act and there is no illegality in it. Therefore, they have justified the impugned order. It is their contention that in view of the said impugned order, the applicant has been relieved from Osmanabad, but he has not joined his new post at Nagpur City. It is their contention that the applicant has not joined his new posting and it amounts misconduct and therefore, they have prayed to reject the present Original Application. It is their contention that applicant cannot claim retention at Osmanabd as of right and on that count also they have prayed to reject the present Original Application.

4. I have heard Shri E.S. Murge, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents. I have perused the documents placed on record by both the parties.

5. Admittedly, the applicant was initially appointed as Police Constable on 01.06.1982. He was promoted on the post of

P.S.I. on 30.01.2010. On 09.12.2015, he was promoted on the post of A.P.I. Admittedly, the applicant is serving in Aurangabad Range since 14.06.2003 till issuance of the impugned order of transfer. Admittedly, the applicant served for about 16 years in Aurangabad Range. By the impugned order dated 29.05.2019, the applicant has been transferred from Osmanabad to Nagpur City.

6. Learned Advocate for the applicant has submitted that the applicant is serving at Osmanabad from 08.11.2017. He has hardly served for about 18 months at Osmanabad. He has not completed his normal tenure of posting there and therefore, he was not due for transfer. He has submitted that the mother of the applicant is old aged and she is suffering from illness and the applicant is the only person to take care of his mother. The respondents without calling options from the applicant, transferred him which is against the provisions of the Maharashtra Police Act. He has submitted that the applicant is suffering from heart disease and therefore, he sought retention at Osmanabad till his retirement i.e. till the end of February, 2020, but the respondents have not considered the said request of the applicant. He has submitted that the impugned order of transfer

is in contraventions of the provisions of Maharashtra Police Act and therefore, he has prayed to quash and set aside the same by allowing the present Original Application.

7. Learned Presenting Officer has submitted that the tenure of posing has been defined under Section 22N of the Maharashtra Police Act. As per the said provisions the Normal Tenure of Police Personnel up to the rank of Police Sub-Inspector, Assistant Police Inspect and Police Inspector in the Range is eight years. The applicant has completed his tenure in the Aurangabad Range and therefore, he was due for transfer. He has served for about 16 years in Aurangabad Range and therefore, the necessary information has been called for in that regard. The respondent No. 3 has submitted information to the P.E.B. No. 2 and the name of the applicant has been figured therein. The applicant was due for transfer, but he has not given options for his transfer, though information has been sought from him. Therefore, the P.E.B. No. 2 decided to transfer the applicant on administrative ground from Osmanabad to Nagpur City. Accordingly, the impugned order has been issued. She has submitted that there is no illegality in the impugned order and therefore, she has justified the same. She has submitted that the applicant has suffered illness after the impugned order and

he never raised ground regarding his illness and illness of his mother before issuance of the impugned order of transfer and therefore, the P.E.B. No. 2 has no opportunity to consider the same. She has submitted that the impugned order has been issued on administrative ground considering the administrative exigency and there is no illegality and therefore, she has prayed to dismiss the present Original Application.

8. On perusal of the record, it reveals that the applicant served in Aurangabad Range for about 16 years. He was due for transfer in view of the provisions of Section 22N of the Maharashtra Police Act, which provides Normal Tenure of Police Personnel and Competent Authority for transfer. The said provisions are relevant and therefore, I reproduced the same:-

“22N. Normal tenure of Police Personnel, and Competent Authority

(1).....

(a).....

(b).....

(c) for Police Officers of the rank of Police Sub-Inspector, Assistant Police Inspector and Police Inspector a normal tenure shall be of two years at a Police Station or Branch, four years in a District and eight years in a Range, however, for the Local Crime Branch and Special Branch in a District and the Crime

Branch and Special Branch in a Commissionerate, a normal tenure shall be of three years.”

9. The applicant has completed his normal tenure in Aurangabad Range. At the time of General Transfers of the year 2019, the respondents have called the information of the officers who are due for transfer, as well as, who have not completed their tenure but want transfer on request from the concerned. The applicant had not filed any application or request for retaining him at Osmanabad on account of his ill health or ill health of his mother at that time. He had not given places of his choice for transfer and therefore, the proposal regarding transfer of the applicant has been placed before the P.E.B. No. 2. The P.E.B. No. 2 decided to transfer the applicant on account of administrative exigency and transferred him from Osmanabad to Nagpur City. The said order has been issued accordingly. The said transfer has been made in accordance with the provisions of Section 22N of the Maharashtra Police Act and there is no violation of the provisions of the said Act. The impugned order has been issued on 29.05.2019 and the applicant has been relieved on 03.06.2019, but the applicant has not joined his new posting since then and this amounts to misconduct on the part of the applicant, who is serving in Disciplinary Force. There is no

provision in the Maharashtra Police Act to retain the applicant at a particular place till his retirement. Therefore, I found no substance in the submissions advanced by the learned Advocate for the applicant in that regard. The impugned order of transfer of the applicant has been issued in accordance with the provisions of the Maharashtra Police Act and therefore, no interference is called for in it. There is no merit in the present Original Application. Consequently, the Original Application deserves to be dismissed.

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

PLACE : AURANGABAD.
DATE : 20.01.2020.

(B.P. PATIL)
ACTING CHAIRMAN

KPB S.B. O.A. No. 919 of 2019 BPP 2020 Transfer