

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 546 OF 2016

DIST. : BEED

Sandhya Namdeo Londhe,
Age 32 years, Occ. Service,
R/o Police Colony, Ambhora, Tal. Asti,
Dist. Beed.

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APPLICANT

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai - 32.

(copy to be served on the Presenting
Officer, M.A.T., Aurangabad Bench)

2. The Superintendent of Police,
Beed, Dist. Beed.
3. The Police Establishment Board,
Superintendent Police Beed,
Dist. Beed.
4. The Assistant Police Inspector
Ambhora Police Station,
Ambhora, Tal. Asti, Dist. Beed.
5. The Assistant Police Inspector,
Patoda Police Station, Dist. Beed.

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RESPONDENTS

APPEARANCE : Shri R.P. Bhumkar, learned Advocate for the
applicant.

: Shri N.U. Yadav, learned Presenting Officer for
respondents.

CORAM : HON'BLE SHRI J. D. KULKARNI, MEMBER (J)

ORAL - ORDER**(Passed on this 19th day of January, 2017)**

1. Heard Shri R.P. Bhumkar, learned Advocate for the applicant and Shri N.U. Yadav, learned Presenting Officer for the respondents.
2. The applicant is a lady Police Constable and at the time of impugned transfer, she was serving at Ambhora Police Station, Tq. Asti, Dist. Beed. Vide the impugned order dated 20.6.2016, the applicant has been transferred to the Police Station, Patoda, Dist. Beed and the reason for that transfer has been shown as ~~On Request~~ The learned Advocate for the applicant submits that the applicant has prayed for request to Asti and not at Patoda and, therefore, the impugned order of transfer is not legal. It is however, material to note that the representation submitted by the applicant is not placed on record.
3. The learned Advocate for the applicant has referred to one letter dated 21.6.2016, which is a representation in which it is stated that the transfer of the applicant at Patoda be cancelled and in case the same is not called she may be reposted at Ambhora.
4. The learned Advocate for the applicant submits that the applicant has not completed 5 years tenure at Ambhora as per the Maharashtra Police Act and, therefore, if her request for transfer is not considered for Asti, she cannot be transferred at Patoda on the ground that she has

requested for transfer and, therefore, the impugned transfer order is illegal.

5. From the affidavit in reply filed by the respondents, it seems that though it is mentioned in the transfer order that it is on request of the applicant but in fact the said order has been passed on administrative ground. In para 5 and 6, the respondents have stated as under :-

5. As regards to the contents of Para No. 3 of the Original Application, I say and submit that the say of the applicant about request transfer is admitted. However during the PEB meeting held on dated 27.05.2016 it has notice that applicant and Lady Police Constable B.No 1818 A.A. Chandne Who were working in Police Station Ambhora were always quarrel with each other by personal reason in Police Station and also in police line. They are working allegation toward each other curse by using bad words. These been ladies, no gents or male officer and staff can take part to separate them. Due to this reason Incharge Police Station Ambhora complaint about these two ladies constable. In this matter Sub Divisional Police Officer Asthi make enquiry and submit his primary enquiry report on dated 28.05.2016 that the two of these ladies police constable i.e. petitioner and Lpc/A.A.Chandne should be transferred to separate the police station for the reputation of police department and as per the report of SDPO Ashti, the Respondent has transfer the petitioner to police station Patoda which is 40 Km from her home town Ashti and 40 Km from

Ambhora and Lpc A.A. Chandne is transfer to police head quarter Beed as provision in Maharashtra Police Act and ordinance dated 25.02.2016 mentioned in para 22N 1(2). A copy report of SDPO Ashti dated 28.05.2016 and copy of Maharashtra Police Act dated 25.02.2016 is annexed herewith and marked as EXHIBIT R-1 Collectively.

I further say and submit that, the applicant's home town is proper Ashti as per entry taken in service sheet, on this ground as per Govt. resolution home department no. टीआरएन-०११०/प्र. ४८८/पोल-५ ब दि. २३ एप्रिल २०१०, her request can not be consider but police station Patoda is near to Police Station Ashti i.e. 40 km. Request consider by this Respondent on domestic ground fully satisfied. Copy of the first page of service sheet of the applicant and GR dated 23.04.2010 annexed herewith and marked as EXHIBIT R-2 Collectively.

06. As regards to the contents of Para No. 4 of the Original Application, I say and submit that the say of the applicant regarding transfer from Parli Rural to Police Station Ambhora is admitted. However applicant transfer from Ambhora to Police Station Patoda is mid tenure is denied, as her transfer made on default report sub divisional police office Asthi's above mention report dated 28.05.2016 as per Maharashtra Police Act and ordinance dated 25.02.2016 mentioned in para 22 N 1(2).+

(Reproduced from the reply of res. nos. 2 & 3 (para 5 & 6) in verbatim)

6. I have perused the impugned order of transfer of the applicant. From the said order, it seems that, as many as 68 Police Constables have been transferred and some of them have been transferred on administrative ground and others on request. The applicant has been shown to have been transferred on request and not on administrative ground. In such circumstances, the contention of the learned Advocate for the applicant that the applicant was not transferred on request seems to be genuine.

7. The learned Presenting Officer invited my attention to guidelines issued vide G.R. dated 23.4.2010 (R-II paper book page 56) and as per the clause (D) thereof, the Constables cannot be appointed at their hometown. The learned Presenting Officer invited my attention to the undertaking given by the applicant, which is a part of Exh. R-II (paper book page 61) from which it seems that the applicant is the resident of House no. 4, Police Colony, Asti.

8. The learned Presenting Officer also invited my attention to the communication dated 26.9.2016 from which it seems that the applicant's request for transfer at Asti as per the representation dated 21.6.2016 has been rejected, however, no reason has been given for such rejection.

9. In the representation dated 21.6.2016 the applicant has given number of personal reasons for her request transfer at Asti. The said

reasons are, however, not considered by the competent authority as seems from the rejection letter. The said rejection, therefore, seems to be without application of mind. Had it been a fact that the applicant's claim cannot be considered because she is a resident of Asti but the said fact should have been mentioned in the rejection letter and the reason for not considering her for retention at Ambhora should also have been mentioned in the said rejection letter. The learned Presenting Officer admitted the fact that the Lady Constable Smt. A.A. Chandane (B. No. 1818) with whom the applicant has some dispute has already been transferred to Beed and, therefore, in such circumstances this aspect should have also to be considered for retention of the applicant at Ambhora.

10. The learned Presenting Officer has submitted that the applicant is not obeying the order of transfer and till today has not joined at Patoda. This is an administrative aspect for which the competent authority may take appropriate departmental action against the applicant.

11. For the reasons stated in the aforesaid paragraphs, it will be thus clear that the applicant's transfer cannot be said to be on request and, therefore, the impugned transfer order dated 20.6.2016 as regards the applicant's transfer from Ambhora to Patoda only is quashed and set aside.

12. It seems that the applicant has applied for the mutual transfer at Asti, however, she cannot be given posting at Asti for the reasons stated hereinabove. The distance between Asti and Patoda is very short and that must be a reason as to why the respondents have transferred the applicant to Patoda. I do not find any mala-fides on the part of the respondents, however, the respondents ought to have considered the personal difficulties mentioned by the applicant in her representation.

13. The learned Presenting Officer states that the post at Ambhora is already filled in. Considering this fact instead of directing the respondents to immediately post the applicant at Ambhora, the respondents can be directed to call the applicant for personal hearing and to find out any suitable way to accommodate the applicant at any other suitable place. Hence, I pass following order :-

ORDER

- (i) The original application is partly allowed.
- (ii) The applicant's transfer at Patoda on the ground of personal request is quashed and set aside.
- (iii) The respondents are, however, directed to consider the representation of the applicant and to accommodate her at any suitable place by calling her for personal hearing or at Ambhora as the case may be. This exercise shall be done within a month from the date of this order.

There shall be no order as to costs.

MEMBER (J)