

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
C.A. NO. 173 OF 2018 IN
ORIGINAL APPLICATION NO. 325 OF 2018 (S.B.)

Shri Anand S/o Purushottam Wankhede,
Aged about : 40 years, Occ. Service,
R/o P.S. Ganeshpeth, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
Through Secretary,
Home Department,
Mantralaya, Mumbai.
- 2) Police Commissioner Nagpur City,
Civil Lines, Nagpur.
- 3) Dy. Commissioner of Police,
(Head Quarter) Nagpur City,
Nagpur.

Respondents

Shri P.K.Mishra, the Id. Adv. for the applicant.

Shri A.M.Ghogre, the Id. P.O. for the respondents.

**Coram :- Hon'ble Shri Shree Bhagwan,
Member (A)**

JUDGMENT

(Delivered on this 07th day of August, 2018)

Heard Shri P.K.Mishra, the learned counsel for the applicant and Shri A.M.Ghogre, the learned P.O. for the respondents.

2. In this O.A., the applicant is claiming following reliefs:-

- i) Allow the O.A.
- ii) Quash and set aside the impugned orders of Transfer dated 24/05/2018 of the applicant from P.S.Ganeshpeth to the Police Head Quarter at Police Head Quarter at Police line takli, the copy of which is filed at Annexures A/4 to this original application, passed by the respondent nos. 2 & 3, as being illegal, perverse, unjustified and under the colourable exercise of the authority under the law.
- iii) Stay the effect operation execution and implementation of the impugned order of transfer to the extent of applicant's transfer is concerned, from P.S.Ganeshpeth to Police Head Quarter at Police line Takli Nagpur.
- iv) Saddle the cost of O.A. on the respondents.
- v) Grant any other relief as may deem just fit and proper.

3. The applicant was appointed as an unarmed Constable in Police Force of Nagpur City in 1996. After completion of training, he was posted at Police Head-Quarter, Takli, Nagpur between the period from 1997 to 1999 and 2010 to 2015. On 15th June, 2015, he was transferred to Police Station, Ganeshpeth. After completing his service tenure of five years at Police Head-Quarter, Nagpur, the applicant worked in Crime Detection Branch at Police Station, Ganeshpeth, Nagpur. The impugned order on P.B., Pg. No. 24 (Annexure-A-4), dated 24/05/2018, vide this order, the applicant is at Sr. No. 229, bearing Buckle No.1896 and has

been transferred from Ganeshpeth to Headquarter dated 24/05/2018, this order has been issued with the approval of Police Establishment Board.

4. The Deputy Commissioner of Police, Zone 3, Nagpur City has made an enquiry against the applicant and enquiry is submitted to the Joint Commissioner, Nagpur City, vide his letter dated 17/05/2018 at P.B., Pg. No. 39 in his enquiry report in the last two lines, the Deputy Commissioner has explicitly recommended that applicant should be transferred at other place from Police Station, Ganeshpeth.

5. On the ground of this enquiry report, Police Establishment Board has recommended and as per recommendation of Police Establishment Board, the impugned order is at P.B., Pg. No. 24 (Annexure-A-4).

6. The Id. P.O. has filed various citations on record :- (1) The Hon'ble High Court, Mumbai at Writ Petition No. 14200 of 2016, **The State of Maharashtra & Another Vs. Siddharth Krushnarao Kasbe & Another** delivered on 20/01/2017, (2) Judgment delivered by Maharashtra Administrative Tribunal, Nagpur Bench in O.A.467/2017 in **Vazeer Hussain Sheikh Vs. State of Maharashtra & 2 Ors.** delivered on 12/10/2017, (3) The Hon'ble High Court, Bench at Nagpur at Writ Petition No. 6809 of 2017 in **Vazeer Hussain Shaikh Vs. State of Maharashtra & 2 Ors.** delivered on 15/11/2017 & (4) The Hon'ble High

Court, Bench at Aurangabad in Writ Petition No. 1277 of 2016 in **Sanjay Gulabrao Deshmukh Vs. State of Maharashtra & 3 Ors.** delivered on 05/05/2016.

7. The Id. counsel for the applicant has filed some citations on record i.e. (1) Hon'ble Supreme Court 2628, **Dr.T.P.Senkumar IPS Vs. Union of India & Ors.** delivered on 24/04/2017, (2) Hon'ble Supreme Court 2653, **Madanuri Sri Rama Chandra Murthy Vs. Syed Jalal,** delivered on 19/04/2017 & (3) Hon'ble High Court, Bench at Nagpur, W.P.No. 2665 of 2011, **Pradeepkumar S/o Kothiram Deshbhratar Vs. State of Maharashtra & Ors.** decided on 25/07/2011.

8. As per the Judgment of Maharashtra Administrative Tribunal, Nagpur in O.A. No. 467/2017 as per the para no. 10 of this Judgment:- *There is no doubt that the competent Police Establishment Board can transfer any officer in the interest of administration and considering the administrative exigency and it is not necessary for this Tribunal to go into the details as to the decision taken by the competent authority to transfer the applicant from one branch to other branch.*

9. I have carefully gone through all the citations for the reasons already discussed. In my opinion, the said Judgments are not applicable to the present set of facts. Since, no malafides are shown by the applicant on the part of the respondent authorities in transferring him from Ganeshpeth, Police Station to Headquarter.

10. None of the Judgment is applicable to the present set of facts. The respondents have made an enquiry by Deputy Commissioner of Police and followed the procedure of "*The Maharashtra Government Servants Regulation of Transfers & Prevention of Delay in Discharge of Official Duties Act, 2005*" by processing the transfer order through Police Establishment Board.

11. In affidavit-in-reply filed by respondent no. 3, the para no. 3 reads:-*It is submitted that, as per the provisions of Section-22-N (c) (e) of Maharashtra Police Act, the Police Establishment Board has empowered to transfer the Police Personnel in mid-term or mid-tenure. The answering respondents had received the default report against the Applicant from the D.C.P., Zone-3, on the basis of said report the preliminary enquiry has been done. The said default report has been placed before the Police Establishment Board. The police Establishment Board after perusing the same has given his consent for transfer of applicant on administrative exigency in public interest. The default report submitted by the D.C.P., Zone-3 is herewith annexed as **Annexure-R-1**.*

12. In affidavit-in-reply respondents have also mentioned about various Judgments. I have gone through the operating para of the Judgment and I personally feel that in this case respondents have followed all the procedures of Police Establishment Board like detailed enquiry report by D.C.P., putting matter before Police Establishment

Board and then issuing impugned order dated 24/05/2018, (Annexure-A-4), Pg. No. 24.

13. In view of the discussion in foregoing paras, I don't find any reason to interfere with the impugned order issued by the respondent no. 3 i.e. Deputy Commissioner of Police, Headquarter, Nagpur to transfer the applicant from Ganeshpeth Police Station to Headquarter. The applicant shall join the headquarter immediately.

ORDER

The C.A. alongwith O.A. stands dismissed with no order as to costs.

Dated :- 07/08/2018

**(Shree Bhagwan)
Member (A)**

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