

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**ORIGINAL APPLICATION NO.306 OF 2020
WITH O.A.NO.307 OF 2020 WITH O.A.NO.337 OF 2020**

O.A.No.306 of 2020

1. Shri Ankush Bhimao Gurav)
Aged about 48 years, Police Constable, B.No.111 022,)
Working at Worli, Mumbai Head Quarter,)
And residing at B.D.D. Chawl No.22, Room No.32,)
Ambedkar Marg, Naigaon, Mumbai.)
2. Shri Ashok Baban Nikam)
Aged about 48 years, Police Constable,)
Armed Police, Tardeo Mumbai and residing at)
B.D.D. Chawl, R. No.22, Ambedkar Marg,)
Naigaon, Mumbai.)
3. Shri Shankar Dadasaheb Galande,)
Aged about 32 years, Police Constable, Naigaon Police,)
H.Q., Mumbai and residing at B.D.D. Chawal,)
R.No.32, Ambedkar Marg, Naigaon-Mumbai.)
4. Shri Ajit Dattatray Jadhav,)
Aged about 34 years, Police Constable, M.T. Section,)
Nagpada Mumbai and Residing at S.S.I. R.No.501/502)
Koper-Khaishe Sector-6, Navi Mumbai.)
5. Smt. Mayuri Swapnil Kumbhar,)
Aged about 28 years, Woman Police Constable,)
Armed Police Local Arms -2, Tardeo, Mumbai,)
Residing at Mumbai.)

- 6 Smt. Swati Jaganath Sutar,)
 Aged about 28 years, Woman Police Constable,)
 M.H.B. Police Station, New Link Road, Borivli (West))
 Mumbai and Residing at B-47, D.B. Marg Police Line,)
 Grant Police (E), Mumbai.)
7. Smt. Priyanka Anandrao Ghorpade,)
 Woman Police Constable, Aged about 30 years,)
 Working at Kandivli Police Station and Residing at)
 A/83, D.B. Marg Police Line,)
 Grant Road East, Mumbai.)
8. Shri Dinkar Namdev Kadam)
 Aged about 50 years, Police Constable,)
 Wadala Police Station, Mumbai.)
 And residing at R.No.8, Jagtapwadi,)
 Kurla Andheri Road, Jari Mari Bau Stop,)
 Mumbai 400 072) **...Applicants**

Versus

1. Commissioner of Police,)
 Mumbai having its office at Crawford Market,)
 Mumbai 400 001)
2. Superintendent of Police,)
 Satara, District – Satara.) **..Respondents**

WITH

O.A.No.307 of 2020

1. Smt. Priyanka Narayan Adsul,)
 Aged about 28 years, Woman Police Constable,)
 Bhandup Police Station, Bhandup, Mumbai)
 And residing at, R.No.105, New Samata Co-op Housing)
 Society, Building No.4, M.M.R.D.A. Colony,)
 Kanjur Marg (W), Mumbai.)

2. Shri Anand Sambhaj Makode,)
 Aged about 32 years, Police Constable,)
 Matunga Police Station, Mumbai 400 019 and)
 Residing at R. No.304, Goury Niwas, Sabe Road Diva (E)
 District Thane 400 612) **...Applicants**

Versus

1. Commissioner of Police, Mumbai)
 having its office at Crawford Market, Fort,)
 Mumbai)
2. Commissioner of Police, Pune,)
 Having its office at Pune, Dist. Pune.)
3. Commissioner of Police, Aurangabad,)
 Having its office at Aurangabad.) **..Respondents**

WITH

O.A.No.337 of 2020

- Shri Shahaji Bhausahab Bahir,)
 Aged about 29 years, Working as Police Constable,)
 (Buckle No.141738), attached to Local Arms,)
 Tardeo, Mumbai R/o. Building No.5, Room No.287,)
 Naigaon, Dadar (E), Mumbai -14.)
 Address for Service of Notice :)
 Shri Arvind V. Bandiwadekar, Advocates,)
 Having office at 9, "Ram-Kripa", Lt. Dilip Gupte)
 Marg, Mahim, Mumbai 400 016.) **...Applicant**

Versus

- The Commissioner of Police,)
 Brihanmumbai.)
 Through the Administrative Officer,)
 Having office at L.T. Marg, Mumbai 400 001) **..Respondent**

Shri M.D. Lonkar, learned Advocate for the Applicants in O.A.No.306 of 2020 and O.A.No.307 of 2020.

Shri Arvind V. Bandiwadekar, learned Advocate for the Applicant in O.A.No.337 of 2020.

Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : JUSTICE MRS. MRIDULA BHATKAR, CHAIRPERSON

RESERVED ON : 13.10.2020.

PRONOUNCED ON:

J U D G M E N T

1. All these three matters are heard together and disposed off by common judgment as the same issue of transfer is involved. All the applicants are Police Constables working at different Police Stations in Mumbai. All of them have completed more than 3 years at Mumbai and pray for the transfer out of Mumbai mostly to their native places on different grounds under Rules issued by the Home Department on 26.10.2017.

2. The learned Counsel Shri M.D. Lonkar appearing for the Applicants in O.A.No.306/2020 and O.A.No.307/2020 has pointed out the Government Resolution (G.R.) dated 26.10.2017 giving approval to the Rules of the transfers of the Police Constable falling in Class of Police Constable, Police Naik, Police Hawaldar, Police Sub Inspector and Inspector. He submitted that a request of transfer of the Police Personnel falling in that Class is to be

considered after completion of immediate 8 years at the Headquarter (original place of posting). However, the case of the Applicants to be considered for transfers at their request under certain circumstances. All the applicants have completed three years of the service and they all fall in the special class as per Rule 2 sub rule (ii) of the said G.R. He submitted that all the Applicants - Police Constables in O.A.No.306/2020 and O.A.No.307/2020 are from Satara and they want to go back to Satara. Earlier there was a vacancy in Satara Police force and therefore the Superintendent of Police from Satara had accepted the proposal of their Inter District Transfer. However, the Commissioner of Police from Mumbai has refused the request of the applicants to go to Satara and extended the tenure of eligibility for transfer from 8 years to 10 years at the Headquarter. He submitted that out of 10 Police Personnel, some of them want to be reunited with their respective spouses. In some cases, the family member of the Police Personnel who are having serious illness, they all are eligible under sub rule (ii) 1 and 2 of Rule 2 of the Rules of 26.10.2017.

3. Learned Counsel Shri Arvind V. Bandiwadekar for the Applicant in O.A.No.337 of 2020 has adopted the same arguments of learned Advocate Shri M.D. Lonkar and submitted that Applicant - Shri Shahaji B. Bahir, has completed three years and want to go back to his respective native place. Applicant's wife is also working as Police Constable at Beed. However, her

request to come to Mumbai and to stay with her husband i.e. the Applicant is rejected.

4. Learned C.P.O. while defending the decision of the Commissioner of Police of rejecting the transfer of the applicants has submitted that in Mumbai more Police force is required as the city needs very high degree of law and order. Replying on the affidavit-in-reply dated 25.08.2020 of Shri Manik Singh P. Patil, Assistant Commissioner of Police, she pointed out that sanctioned manpower of the Mumbai Police is 41591. However, Police force is working with vacancy of 2520 and due COVID-19 55 years Police Personnel who are 4568 in numbers are not available for duty. Therefore it is not possible to relieve the applicants on Inter District Transfer. The learned C.P.O. has further submitted that alongwith Government accommodation, all the medical facilities are available in Mumbai city for 24/7 hours and cashless medical facility is provided by Mumbai Police Welfare Fund. The learned C.P.O. produces that the applicant was not relieved purely on administrative ground and the Commissioner of Police as well as Joint Commissioner of Police, Mumbai by G.R. dated 16.10.2017 has taken policy decision to raise the period of 8 years to 10 years for Inter District Transfer. The Commissioner of Police and the Joint Commissioner of Police are empowered to take policy decision of transfer.

5. The Government has issued G.R. dated 26.10.2017 for the Rules of Inter District Transfer. The Police Personnel falling in the Class as stated below are eligible for Inter District Transfer.

- * firstly, if his service is regularized and certified.
- * Secondly, on completion of 8 years at Headquarter.

6. The regular period of 8 years is reduced to 3 years under following circumstances :-

- (i) Union of Husband and wife.
- (ii) Serious illness of wife, mother, father, children
- (iii) Victim of naxalites and terrorists attack.

7. The applicants who are before Tribunal claim their Inter State Transfer under sub rule (ii) 1 and 2 of Rule 2 of G.R. dated 26.10.2017. A chart of the applicants in O.A.No.306/2020 and O.A.No.307/2020 with the reasons of special circumstances and the period completed at headquarter is produced by the learned Advocate Shri M.D. Lonkar which is as follows :-

सातारा जिल्हा (मुळअर्ज क्र.३०६)

अ.क्र	बक्कज नंबर	नाव	सेवाकालावधी	बदलीचे कारण
१	१११०२२	अंकुश भिमराव गुरव (माजी सैनिक)	८ वर्ष पूर्ण भरती दिनांक १२/०९/२०१२	आईचे आजारपण (मनोरुग्ण)
२	११०९९८	अशोक बबन निकम (माजी सैनिक)	८ वर्ष पूर्ण भरती दिनांक १२/०९/२०१२	आईचे आजारपण (दमा)
३	११०६२२	अजित दत्तात्रय जाधव	८ वर्ष पूर्ण भरती दिनांक १२/०९/२०१२	वडीलांचे आजारपण (मेंदूचा आजार व मानसिक रुग्ण)
४	११२०८८	स्वाति जगन्नाथ सुतार	८ वर्ष पूर्ण भरती दिनांक १२/०९/२०१२	पती पत्नी एकत्रीकरण (पती एसटी महामंडळ, सातारा येथे कार्यरत)
५	११२४४३	प्रियंका आनंदराव घोरपडे	८ वर्ष पूर्ण भरती दिनांक १२/०९/२०१२	पती पत्नी एकत्रीकरण व सासरे मनोरुग्ण

६	१११०३०	दिनकर नामदेव कदम (माजी सैनिक)	८ वर्ष पूर्ण भरती दिनांक १२/०९/२०१२	पत्नीचे आजारपण
७	१४०५६२	शंकर दादा गलांडे	६ वर्ष पूर्ण भरती दिनांक ०१/०९/२०१४	आईचे आजारपण
८	१४०८५५	मयुरी स्वप्जिल कुभार	६ वर्ष पूर्ण भरती दिनांक ०१/०९/२०१४	पती पत्नी एकत्रीकरण (पती सातारा पोलीस, सातारा येथे कार्यरत)

मुळअर्ज क्रमांक.३०७

अ.क्र	बककज नंबर	नाव	सेवाकालावधी	बदलीचे कारण
१	११२२८३	प्रियंका नारायण अडसूळ (पुणे जिल्हा)	८ वर्ष पूर्ण भरती दिनांक १४/०९/२०१२	पती पत्नी एकत्रीकरण (पती पूणे पोलीस, पूणे येथे कार्यरत)
२	११०७५५	आनंद संभाजी माकोडे (औरंगाबाद जिल्हा)	८ वर्ष पूर्ण भरती दिनांक १२/०९/२०१२	वडील मनोरुग्ण व आईला अर्धागवाचा आजार आहे.

The learned Advocate Shri A.V. Bandiwadekar informed that the applicant in O.A.No.337/2020 has completed 3 years.

8. In view of G.R. dated 26.10.2017, the Police Personnel who have completed three years and who are falling under the special circumstances as contemplated under the said Rule should have been definitely considered for their Inter District Transfer. Due to unprecedented situation of COVID-19 pandemic more Police force is required in Mumbai. The fifty four Police Personnel lost their lives in Mumbai in the pandemic, so also 4568 Police Personnel who are above 55 years are not available for field duty. The affidavit-in-reply filed by Respondent No.1, Shri Manik Singh P. Patil, Assistant Commissioner of Police, reveals that as on today, out of total Police force of 39071, 2520 posts of police are vacant. Therefore, the decision of not transferring the Police Personnel who have completed three years, at

Mumbai, to other District is justified in the present situation. However, not to transfer Police Personnel who have completed 8 years and fall under sub rule (ii) 1 and 2 of Rule 2 of the said G.R. is a decision against the Respondents own policy.

9. On perusal of the proposal of Inter District Transfer of the Police Personnel and the decision taken thereon by the Joint Commissioner of Police/ Commissioner of Police, it is found that the decision of extending the period from 8 years to 10 years for the Inter District Transfer was taken by the Joint Commissioner of Police (Admn.). Undoubtedly, the Government is empowered to take policy decision at its level. However, the legal position cannot be ignored. No G.R. of extending the period from 8 years to 10 years is produced before me.

10. In the present case, the issue is not of completing normal tenure of 8 years or 10 years at the headquarters for Inter District Transfer, but the issue is related to Inter District Transfers when special reasons are shown as contemplated under sub rule (ii) 1 and 2 of Rule 2 the said G.R. Thus, after completion of the period of 3 years if special reasons are made out then it is to be considered by the competent transferring authority. It was argued and the judicial notice needs to be taken that in thickly populated Mumbai standard of living is high along with long distance commutation from home to work place. Law and order in Mumbai is always a challenge before the Police force. Hence, the Police constables who hail from the District and

rural Maharashtra are always keen to go back to their respective Districts. Therefore, some restrictions of completion of minimum period at the headquarter is the correct policy laid done by the Government in the interest of administration of the Police force and also for security and safety of the people in Mumbai. At the same time, the convenience of the family of the Police constable is also to be taken into account sympathetically. Sub Rule (ii) of Rule 2 of G.R. dated 26.10.2017 in fact strikes the appropriate balance in adequate number of police force in Mumbai and the domestic issues of the police constables. The eight applicants out of eleven have not only completed 3 years but have now completed 8 years of their services at Headquarters i.e. in Mumbai and they indeed are entitled to get benefit of sub rule (ii) 1 and 2 of Rule 2 of the said G.R. The case of the other three applicants who have completed 3 years and fall in that category may be considered by the authority later but within a reasonable period. The period of three years where the special case under sub rule (ii) 1 and 2 of Rule 2 of the said G.R. is made out cannot be extended for 10 years which frustrates its own policy and the said G.R.

11. As on today 2520 posts of Police Personnel are vacant in Mumbai. It is up to the Government to take steps to fill up the vacancy at the earliest. So the Police Personnel like the applicants can get the benefit of the said G.R.

12. With the above observations, the Original Applications are partly allowed. Accordingly, following order is passed :-

ORDER

The Applicants who have completed 8 years are to be transferred Inter District as per the G.R. dated 26.10.2017 to their respective places with immediate effect i.e. on or before 31.10.2020.

Sd/-

Place : Mumbai
Date : 15.10.2020

(Mridula Bhatkar, J.)
Chairperson

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