

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO 485 OF 2019**

**DISTRICT : LATUR**

Chandrasen s/o Jagdevrao Deshmukh )  
Age : 51 years, )  
Occ : Service as Police Inspector, )  
P.S. Chakur, R/o : Police Inspectors' )  
Quarter, Police Station, Chakur, )  
Dist-Latur. )...**Applicant**

**Versus**

1. The Superintendent of Police, )  
Latur, Shivaji Nagar, )  
Latur, Dist-Latur. )  
2. Mr. Jaywant R. Chavan, )  
Police Inspector, )  
Police Station, Chakur, )  
Dist-Latur. )...**Respondents**

Shri Avinash Deshmukh, learned advocate for Applicant.

Shri M.S Mahajan, learned Chief Presenting Officer for Respondent no. 1.

Shri Sunil B. Jadhav, learned advocate for Respondent no. 2.

**CORAM : Shri B.P Patil, (Acting-Chairman)**

**RESERVED ON : 09.09.2019**

**DELIVERED ON : 16.09.2019**

**ORDER**

1. The applicant has challenged impugned transfer order dated 7.6.2019 issued by Respondent no. 1 thereby transferring him from the post of Police Inspector, Police Station Chakur to Police Control Room, Latur.

2. The applicant entered the service of the Government of Maharashtra in the Police Department as P.S.I in the year 1989 as a directly recruited candidate through M.P.S.C. In the year 2001, he was promoted as Assistant Police Inspector and in the year 2008 he was further promoted as Police Inspector. Since then, he is serving as Police Inspector. On 12.8.2014, when he was serving in Greater Mumbai, the Director General of Police, M.S, Mumbai was pleased to transfer him to the Police Training Centre, at Latur. In pursuance of the said order, he was relieved from his post from Greater Mumbai on 19.8.2014, and thereafter, he joined at Police Training Centre, Latur on 30.8.2014.

3. Upon joining the post in Police Training Centre, Latur, he was given one step promotion as Dy. Superintendent of Police. After working at Police Training Centre for a period of about quarter to two years, on 24.5.2016, the D.G.P, M.S, Mumbai was pleased to transfer him from P.T.C, Latur to the Latur District Police Force on the establishment of Respondent no. 1, i.e. S.P, Latur. The applicant was relieved from Police Training Centre on 26.5.2016. Thereafter, Respondent no.1 has issued order giving him posting at Police Station Devni on the very day.

4. It is contention of the applicant that while issuing the order, Respondent no . 1 used the word “बदली व तैनात” as interchangeable to one another. Accordingly, he joined the post of Police Inspector, Devni. He worked there about 7 months and thereafter on 22.12.2016, Respondent no.1 issued an order posting him at Police Station, Jalkot, in place of one Shri K.S Patil, Police Inspector and Shri K.S Patil, was posted in his place at Devni Police Station. The applicant joined the post at Jalkot on

22.12.2016 and started discharging his duties. He worked thereabout for 4 months and thereafter, again he was transferred to Police Control Room at Latur, by order dated 17.4.2018 on administrative grounds.

5. The applicant was aggrieved by the repeated action of Respondent no. 1, but had not raised any grievance and obeyed the orders issued by Respondent no.1. He joined the Police Control Room, Latur in pursuance of order dated 17.4.2018. On 2.2.2019, Respondent no.1 was pleased to issue one more order thereby transferring the applicant and posting him to Chakur Police Station on administrative grounds. At the time of issuing the said order, Respondent no. 1, used another term, i.e. “संलग्न” meaning “attachment”. It is the contention of the applicant that Respondent no.1 used different terms “बदली, तैनात व संलग्न” while changing the posting of the applicant from time to time.

6. It is contention of the applicant that Respondent no.1 had not followed the provisions of Section 22N of the Maharashtra Police Act, while making transfer and posting of the applicant. It is his contention that in view of the said order, he joined the said post at Chakur Police Station on 3.2.2019. He hardly completed the tenure of four months on the post of Police Inspector, Chakur Police Station. He has not completed his statutory tenure of two years at Police Station Chakur as provided under Section 22N of the Maharashtra Police Act. He was not due for transfer.

7. On 7.6.2019 in the afternoon, about 04.05 pm, he was discharging his duties at Police Station, Chakur and that time he started feeling unwell and therefore, he made entry in the Station Diary and

visited Rural Hospital, Chakur, where he was examined by Medical Officer, Rural Hospital, Chakur, who had prescribed certain medicines to him. It is his contention that on 7.6.2019 Respondent no. 1 was pleased to issue one more order of his transfer and transferred him from Chakur Police Station to Police Control Room, at Latur and posted Respondent no. 2 in his place.

8. It is his contention that neither he nor Respondent no. 2 was due for transfer. But Respondent no.1 issued the impugned order in violation of provisions of Section 22N of the Maharashtra Police Act. It is his further contention that at the time of issuance of the impugned order, the Code of Conduct was implemented by the Station Election Commission in relation to Gram Panchayat Elections. Respondent no.1, issued the transfer order of the applicant without seeking approval from the State Election Commission. It is his contention that Respondent no.1 issued the impugned order without following the provisions of Section 22N(1) &(2) of the Maharashtra Police Act. It is his contention that it is a mid-term and mid-tenure transfer. No reason has been assigned while passing the impugned transfer order. No exceptional grounds has been made out by Respondent no.1, while passing the impugned order and even the highest authority, i.e. State Government has not passed the said order if the transfer order was issued on account of serious complaints against him. Therefore, he has challenged the impugned order by filing the present Original Application and prayed to quash the impugned order by allowing the O.A.

9. Respondent no.1 has filed affidavit in reply and resisted the contention of the applicant. He has admitted the fact that he issued the

transfer order dated 3.6.2016 and posted applicant at Devni Police Station. It is his contention that when applicant was serving at Devni Police Station, one Jyoti V. Bondge, filed complaint against the applicant regarding his behavior. Therefore, Respondent no. 1 appointed Dy. S.P, Udgir to inquire into the complaint. It is his contention that allegations made in his complaint were serious and sensitive which could malign the reputation of the Police Department in the public at large. There was every likelihood that the complainant would have been pressurized and threatened by the applicant. Therefore, in order to conduct fair inquiry in the matter, it was incumbent to transfer the applicant to different Police Stations.

10. It is his contention that one news was published in Daily Lokmat on 4.4.2018 wherein it has been mentioned that one stolen motor cycle was found in the house of the applicant, when he was posted at Police Station, Jalkot. Spl. I.G, Nanded Range has issued order directing to conduct preliminary enquiry and Dy. S.P was appointed as Enquiry Officer. Such incident brings stigma on the Police Department and lower down the moral and faith in the public at large. Therefore, applicant was immediately transferred from Jalkot Police Station to Control Room, Latur. The applicant has heard about the said news and therefore, he has not raised any grievance of the order dated 17.4.2018 and obeyed the order.

11. It is contention of the applicant that thereafter he was posted at Police Station, Chakur on administrative grounds. The said order was not transfer order of the applicant. Due to the programme of Lok Sabha Election, 2019, the Police Force was required to be deployed, and as the

Police Department was facing shortage of Police Personnel, in order to meet the requirement, applicant was attached to Police Station, Chakur, by order dated 2.2.2019. But the applicant misinterpreted the said order and treated it as transfer order. It is contention of the applicant that he worked at Chakur Police Station for about four months as he was attached to Chakur Police Station on 2.2.2019. It was not a transfer order. Therefore, no question of compliance of provisions of Sec 22N of Maharashtra Police Act arises.

12. It is his contention that the impugned order dated 7.6.2019, attaching the applicant to Chakur Police Station has been withdrawn and applicant has been reposted to his original post in the Police Control Room, Latur. The other Police Officers have been transferred on administrative grounds. It is his contention that by the said order attachment of the applicant to Chakur Police Station has been cancelled and therefore it does not amount "transfer". However, the other officers mentioned in the said order have been transferred and their transfers have been effected by following the provisions under Sec 22N of the Maharashtra Police Act and there is no illegality in it.

13. It is his further contention that the applicant was in-charge of Police Station, Chakur. It was his duty to supervise the affairs of the Police Station, but he has failed to discharge his duties. It is his contention that Crime bearing no. 358/2018, for offences punishable under Sec. 143, 302, 120 of IPC and Crime bearing no. 112/2019 for offences punishable u/s 354-A, 354-D, 323, 504 IPC and Sections 7, 8, 9, 10, 11 & 12 of POSCO Act were registered with Chakur Police Station. The Investigating Officer has failed to submit the charge sheet against

the accused in these crimes within the statutory period as contemplated under law. Therefore, accused in both the cases were enlarged on compulsive bail.

14. The applicant has failed to supervise affairs of the Police Station and therefore, default report of the applicant has been forwarded to the Special I.G, Nanded. It is his further contention that the applicant was previously punished with major penalty such as “dismissal from service” and “removal from service”. Considering the said facts, it would not be appropriate to post the applicant at any Police Station for proper administration and to maintain law and order. Therefore, attachment of the applicant to Chakur Police Station was withdrawn. It is his contention that there is no illegality in the said order and therefore, he prayed to reject the O.A.

15. Respondent no. 2 resisted the contention of the applicant by filing his affidavit. It is his contention that he has been transferred from Police Control Room to Chakur Police Station as per provisions of law. He obeyed the said order and immediately took charge of the Police Station, Chakur on 7.6.2019 and started discharging his duties.

16. It is his contention that after issuance of the impugned order the applicant moved application dated 23.1.2019, before Special I.G.P, Nanded Region requesting for transfer from Latur District to Nanded District. It is his contention that attachment of the applicant to Chakur Police Station was of temporary. At the time of Lok Sabha Elections 2019 as department was falling shortage of Police personnel and therefore such temporary arrangement was made and it has been withdrawn by

Respondent no.1 by impugned order and there is no illegality in it. Therefore, he prayed to reject the Original Application.

17. The applicant has filed rejoinder to the reply filed by Respondents no 1 & 2 and contended that mid-tenure transfer shifting him from Chakur to Latur is not permissible in view of the provisions of Maharashtra Police Act. It is his contention that enquiry has been conducted by the Enquiry Officer in the complaint filed by Mrs. Jyoti Bondge and regarding news item published in the Daily Lokmat but nothing found in the enquiry. It is his contention that he was dismissed and removed from service on two occasions. But the punishment imposed on him has been set aside by the Government and he has been reinstated in the service. Therefore, Respondent no.1 cannot take benefit of the said punishment which has already been set aside.

18. It is his contention that while issuing order dated 2.2.2019, Respondent no. 2 has not mentioned anything about General elections. It is his contention that impugned order is issued in violation of the provisions of the Maharashtra Police Act and therefore, he prayed to allow the Original Application.

19. I have heard Shri Avinash Deshmukh, learned advocate for the Applicant, Shri M.S Mahajan, learned Chief Presenting Officer for the Respondent no.1 and Shri Sunil B. Jadhav, learned advocate for Respondent no.2. I have perused the documents produced by both the parties.

20. Admittedly, the applicant was initially appointed as a P.S.I in the year 1989 as directly recruited candidate through M.P.S.C. He was



promoted to the cadre of A.P.I in the year 2001. Thereafter, he was again promoted to the cadre of Police Inspector in the year 2008. Admittedly, in the year 2014, when he was working in Greater Mumbai, on 12.8.2014 he was transferred to Police Training Centre, Latur. He worked there for about two years and on 24.5.2016 he was transferred from Police Training Centre, Latur to the office of S.P, Latur. He joined on the establishment of respondent no.1 on 3.6.2016 and on the very day, Respondent no. 1, posted him as Police Inspector, Devni Police Station. Thereafter, on 22.12.2016, the applicant was transferred to Police Station, Jalkot. On 17.4.2018 the applicant was transferred from Jalkot Police Station to Police Control Room, Latur.

21. Admittedly, on 2.2.2019 the applicant was attached to Police Station, Chakur by the Respondent no.1 and he worked here till issuance of the impugned order. By the impugned order dated 7.6.2019, applicant was reposted to Police Control Room, Latur, by cancelling his attachment to Police Station, Chakur.

22. Learned advocate for the applicant has argued that the applicant has been transferred by different orders within Latur District, on several occasions by Respondent no. 1, under the garb of “बदली” “transfer” and “नैनाली” attachment”. Learned advocate for the applicant has further submitted that whenever applicant was transferred, on every occasion, Respondent no.1 has used different terms. He submitted that on each and every occasion Respondent no. 1 issued the transfer order without following the provisions of Section 22N of Maharashtra Police Act. He has submitted that the applicant was posted at Police Station, Chakur on 2.2.2019. He hardly completed 4 months on that post. He was not

due for transfer. But the Respondent no.1 issued the impugned order in violation of provisions of Sec 22N of the Maharashtra Police Act and transferred him to Police Control Room, Latur. He has submitted that Respondent no. 1 issued the said order without getting approval of State Election Commission as the code of conduct was implemented in the District for Gram Panchayat Elections.

23. He has submitted that Respondent no.1 neither followed provisions of Section 22N(1) of the Maharashtra Police Act nor highest competent authority, i.e. Government has issued the impugned order in view of provisions of Sec 22N(2) against the alleged complaint against him. Therefore, impugned order is bad in law and requires to be quashed by allowing the O.A.

24. Learned C.P.O. and learned Advocate for the respondent no.2 have submitted that the impugned order is not order of transfer as contemplated under the provisions of Maharashtra Police Act. They have submitted that on 2.2.2019 the applicant was working at Police Control Room, Latur. Due to shortage of Police Personnel and ensuing General elections, Respondent no. 1, issued the order and attached the applicant to Chakur Police Station to maintain law and order. They have submitted that after completion of the General Elections the applicant has been posted back to his regular posting in Police Control Room, Latur and therefore, the impugned order has been issued. They have submitted that the impugned order is not a transfer order but it is cancellation of the attachment of the applicant to Police Station, Chakur. They have submitted that Respondent no.1 had placed the matter of the applicant before the Police Establishment Board by way of abundant

precaution and after decision of the P.E.B, attachment of the applicant to Police Station, Chakur has been cancelled. They have submitted that there is no violation of provisions of Sec.22N of the Maharashtra Police Act. The order of cancellation of applicant's attachment to Police Station, Chakur does not amount transfer.

25. They have submitted that past service record of the applicant was not good. Moreover, there were several complaints of serious nature against the applicant, and therefore, default report was submitted by the Department against the applicant, and therefore, in the interest of public at large the impugned order has been issued. They have submitted that while attaching the applicant to Chakur Police Station, Respondent no. 1 has specifically mentioned in the order dated 2.2.2019 that it was for a temporary period. The said attachment has been cancelled by the impugned order due to administrative exigency and there is no illegality in it. Therefore, they have supported the impugned order. They have further submitted that transfer of Respondent no. 2 has been made as per decision taken by the Police Establishment Board and there is no illegality in the said order. Therefore, they have prayed that the O.A may be rejected.

26. On perusal of the documents on record, it reveals that the applicant has been transferred to Police Control Room Latur by order dated 10.4.2018. By order dated 2.2.2019, he was temporarily attached to Chakur Police Station. This fact is evident from the order dated 2.2.2019, which is placed at page 25 of the O.A. Admittedly, the applicant was attached to Chakur Police Station at the time of General Elections of 2019. On perusal of the order dated 2.2.2019, it is crystal

clear that it is not a transfer order as contemplated under Sec 22N of the Maharashtra Police Act. The said order was issued by Respondent no. 1 on account of administrative exigencies for a temporary period.

27. The said order has not been issued on the basis of decision taken by the Police Establishment Board, which is the competent authority to transfer Police Personnel, and therefore, it cannot be termed as a transfer order. By the said order the applicant was attached to Police Station Chakur temporarily. By the impugned order the attachment of the applicant to Chakur Police Station has been cancelled and he has been reposted to Police Control Room, Latur. The matter regarding transfer of several Police Officers in Latur District has been placed before the Police Establishment Board along with the proposal of cancellation of attachment of the applicant. Police Establishment Board took decision and issued impugned transfer of other five Police Officers on administrative grounds and reposted the applicant at his original post, i.e. Police Control Room, Latur. This does not amount to transfer. By abundant precaution, Respondent no.1 placed the case of the applicant for cancellation of his attachment to Police Station Chakur before the Police Establishment Board and the P.E.B decided to cancel his attachment with Chakur Police Station. All these facts shows that there is no violation of the provisions of Sec 22N of the Maharashtra Police Act as the impugned order is cancellation of his attachment to Chakur Police Station, which was made for a temporary period. Therefore, the provisions of Sec 22N of M.P.A are not attracted in the matter.

28. Therefore, in my view, there is no illegality in the impugned order. Hence, no interference is called for in the impugned order. There is no

merit in the Original Application. Consequently, it deserves to be dismissed.

29. In view of the observations in the foregoing paragraphs, O.A stands dismissed with no order as to costs.

**(B.P Patil)**  
**Acting-Chairman**

**Place : Aurangabad**  
**Date : 16.09.2019**

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