

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 100 of 2020 (S.B.)

Praful Sitaram Khobragade,
Aged about 34 years, Occ. Service,
R/o Sanjay Gandhi Nagar No.2,
Amravati, Tq. & Dist. Amravati.

Applicant.

Versus

- 1) State of Maharashtra,
through its Principal Secretary,
Home Department,
Mantralaya, Mumbai-32.
- 2) The Additional Director General of Police,
M.S. Shahid Bhagatsingh Marg, Colaba, Mumbai.
- 3) The Commissioner of Police,
Amravati City, Amravati.

Respondents.

S/Shri D.M. Kakani, G.K. Bhusari, Advocates for the applicant.

Shri H.K. Pande, P.O. for the respondents.

**Coram :- Hon'ble Shri Anand Karanjkar,
Member (J).**

Date of Reserving for Judgment : 10th December, 2020.

Date of Pronouncement of Judgment : 24th December, 2020.

JUDGMENT

(Delivered on this 24th day of December, 2020)

Heard Shri G.K. Bhusari, learned counsel for the applicant
and Shri H.K. Pande, learned P.O. for the respondents.

2. The present O.A. is filed for directing the respondents to allow the applicant to join duty at Amravati as per the order dated 29/10/2018. The facts in brief are as under –

3. The applicant joined the service as Police Constable in the year 2008. The applicant was serving as Police Constable and he was attached to the Amravati City Police Station. It is grievance of the applicant that all of a sudden vide order dated 5/7/2018, the applicant was transferred to Usmanabad and he was relieved from the duty. The applicant challenged this order by filing departmental appeal before the Home Minister, Maharashtra State and the Hon'ble Minister was pleased to allow the appeal and cancel the order of transfer vide order dated 29/10/2018.

4. The Section Officer, Government of Maharashtra, Home Department communicated the order dated 29/10/2018 to the respondent no.2 and it was informed that the applicant's transfer from Amravati to Usmanabad was directed to be set aside, the applicant be suspended and disciplinary proceeding shall be initiated in view of the charges. The respondents thereafter filed Review Application before the Government of Maharashtra and the Government of Maharashtra dismissed the Review Application vide order dated 28/6/2019. The applicant requested the respondents to allow him to resume duty at

Amravati, but he was not permitted to do so. Hence, this application is filed.

5. The respondent no.3, the Commissioner of Police, Amravati filed reply to the O.A, it is at page no.48 of the P.B. There is no dispute about the factual aspects. According to the respondents, the applicant had developed closed relationship and friendship with persons who were engaged in illegal activities like running common gambling Den. The applicant was in habit to telephone the person who was running gambling Den and he was providing them advance intimation. It is contention of the respondents that Government's order dated 29/10/2018 was received. It was brought to the notice of the Government that as per Rule 2 (iv) once person is transferred from one unit, then he shall serve there two years and therefore it was not possible to permit the applicant to resume duty. It is submitted that the applicant was relieved on 5/7/2018, therefore, it was necessary for the applicant to work for two years at Usmanabad, the applicant did not resume duty at Usmanabad and therefore the applicant was not permitted to join at Amravati. It is submitted that there is no substance in the O.A. and it is required to be dismissed.

6. In this case it is pertinent to note that vide Annex-A-2 dated 29/10/2018 the applicant's transferred to Usmanabad was set aside and direction was given to the respondent no.2 to cancel the

transfer and initiate the disciplinary action against the applicant. There is no dispute about the fact that the respondents did not comply this order, they filed Review Application. Ultimately, the Government was pleased to dismiss it on 28/06/2019.

7. Once the decision was taken by the Government (Hon'ble Home Minister) and directions were issued to the respondent no.2 to cancel the transfer of applicant to Usmanabad, the respondent was in obligation to give effect to that order, instead of giving effect to that order, the application for Review was filed which was rejected on 28/6/2019 and till today the respondents are not permitting the applicant to resume duty putting finger on Rule 2 (iv). The rules are framed by the Government relating to inter-district transfer which are dated 26/10/2017. Here, it must be pointed out that the respondent nos.2&3 are the Officers of the respondent no.1 and decision taken by the respondent no.1 was binding on respondent nos.2&3. Once decision was taken by the Hon'ble Minister and direction was given to respondent no.2 to cancel the transfer of applicant to Usmanabad and again when the respondent nos.2&3 learnt that their Review Application was also rejected, it was incumbent on the respondent nos.2&3 to give effect to the order dated 29/10/2018, but it is not done. In view of this, I am compelled to say that the respondents

were bound to comply the order dated 29/10/2018 and committed illegality in not permitting the applicant to resume the duty.

8. In view of the above facts, the O.A. stands allowed. The respondents are directed to permit the applicant to resume duty. Liberty is given to the respondent nos.2&3 to give posting in view of the pending disciplinary proceeding against the applicant at any place in the Amravati Division as per Circular issued by the Government. The respondents do comply this order within one month from the date of this order. No order as to costs.

Dated :- 24/12/2020.

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(Anand Karanjkar)
Member (J).

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment pronounced on : 24/12/2020.

Uploaded on : 24/12/2020.

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