

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 205/2018

Mr. Prakash Harisingh Gujar,
Aged about 40 years, Occ. Service (ASI),
R/o Govt. Quarter, SRPF, Group-IV,
Nagpur (M.S.).

Applicant.

Versus

- 1) The State of Maharashtra,
through its Additional Chief Secretary,
Home Department, Mantralaya, Mumbai-32.
- 2) Director General of Police,
Maharashtra State, Mumbai.
- 3) Additional Director General of Police,
SRPF, Maharashtra State, Mumbai.
- 4) Pramod Bapurao Fulkar,
Aged Major, Occ. Service (H.C.),
O/o Commandant SRPF Group No.9,
Amravati (M.S.).
- 5) Nileshkumar Krishnamurari Mishra
Aged Major, Occ. Service (H.C.),
O/o Commandant SRPF, Group No.9,
Amravati (MS).

Respondents

Shri S.C. Deshmukh, Advocate for the applicant.

Shri A.M. Khadatkar, P.O. for respondent nos.1 to 3.

None for respondent nos. 4 and 5.

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

JUDGMENT

(Delivered on this 2nd day of November,2018)

Heard Shri S.C. Deshmukh, learned counsel for the applicant and Shri A.M. Khadatkar, learned P.O. for respondent Nos.1 to 3. None for respondent Nos. 4 and 5.

2. The applicant is serving as Assistant Sub-Inspector (ASI), SRPF (Group-IV), Maharashtra at Nagpur. The respondent No.1 issued Circular dated 19/09/2001 and declared the scheme that the Police Personnel on establishment of SRPF, may request for their transfers to the Maharashtra Police Department on completion of 10 years service and accordingly it was necessary for the SRPF to prepare the waiting list of the Personnel, who were willing for the transfer. Lateron the respondent No.1 issued corrigendum on 21/10/2016 and enhanced the length of service from 10 to 15 years for the said transfer.

3. The applicant and other 29 employees of SRPF, Group-IV, Nagpur filed O.A.No.199/2017 to seek directions to the Department to publish a waiting list of eligible and willing personnel for their transfers from SRPF to District Police Force. After hearing both the parties, the learned Single Bench MAT Nagpur, by order dated 11/10/2017 directed the respondents in that matter to prepare and publish the

waiting list of the eligible and willing Personels, who were fulfilling the criteria.

4. It was directed that the list shall be published within three months from the date of the order. Accordingly, the list was prepared, the applicant informed his willingness and his willingness for his transfer to Wardha for the reasons mentioned in his application. The applicant was surprised to see that he was not transferred to District Ploice Force, Wardha, but the respondent No.4 and 5 though juniors to him and both of them not completed the service of 15 years, were transferred to Wardha District Police Force.

5. Being aggrieved by the action of the department present application is filed by the applicant. It is submission of the applicant that both respondent Nos. 4 and 5 were juniors to him and they had not completed the service of 15 years as required as per the Circular, therefore both were not eligible for transfer. It is submitted that the authorities of SRPF and the S.P., Wardha disregarded this fact and respondent Nos. 4 and 5 were appointed to the post after transfer. It is submitted that this action of the respondent Nos. 1 to 3 is illegal, therefore, the transfers of respondent Nos. 4 and 5 be set aside and directions be issued to transfer the applicant to District Police Force, Wardha.

6. The respondents Nos. 1 to 3 have resisted the applicant's claim vide reply which is at Page no.62 of the P.B. It is submission of the respondents Nos. 1 to 3 that the applicant could not be transferred to the District Police Force due to excessive number of police personnel from SRPF, Group-IV. It is submitted that as per the G.R. dated 19/09/2001 personnel more than 10% of the SRPF Group of the total strength could not be transferred. It is submitted that the total sanctioned strength of Group-IV of SRPF was 1125 and 89 posts were vacant. Therefore, from SRPF Group-IV only 23 personnel could have been transferred and accordingly 23 personnel, who were seniors to the applicant, were transferred. It is submitted that the respondent Nos. 4 and 5 were Members of Group No.IX and therefore there is no substance in this application and it is liable to be dismissed. The applicant has filed along with his application Annex-A-4, the order passed by the Maharashtra Administrative Tribunal, Bench at Nagpur in O.A.No.199/2017 on 11/10/2017. In this matter direction was given to the respondents to publish a waiting list of eligible and waiting personnel for transfer from SRPF to the District Police Force. It was directed to publish the list within a period of three months from the date of order.

7. The document at annexure no.5 is the copy of the application submitted by the applicant to Additional Police Director

General, SRPF, Maharashtra State. In this application, it was submitted that 16 years service was completed by the applicant in SRPF, therefore, considering his family difficulties and liabilities, he be transferred to District Police Force, Wardha. Annex-A-6 is letter dated 16/12/2017 written by the Additional Police Director of General, SRPF, Mumbai. It is regarding the waiting list. The waiting list is annexed with this letter. It is from page nos. 31 to 37.

8. I have perused the interim order dated 20/03/2018 in this matter. Annex-A-6 and waiting-list from pages 31 to 37 were perused by the learned Member of Single Bench and after considering this it was observed that as the names of respondent Nos. 4 and 5 were not included in the list, therefore, the respondents were directed to maintain status-quo as regards respondent Nos.4 and 5.

9. The learned counsel for the applicant invited my attention to the list which is at page no.31. Same submissions are made that names of respondent Nos. 4 and 5 are not included in the list because they have not completed the service of 15 years and they were juniors to the applicant and therefore their transfers to the District Police Force, Wardha are malafide.

10. The Second submission is that as per the advertisement which is at page no.47 of the P.B. only 75 posts were vacant and therefore the respondents Nos. 1 to 3 could have transferred 37

personnel from the Group-IV. In order to examine this contention I will first consider the waiting list. It is important to note that in earlier O.A.No. 199/2017 decided on 11/10/2017 specific direction was given that within three months the waiting list of the eligible and willing personnel shall be prepared. After reading the list which produced by the applicant which is at page nos. 31 to 37, it appears that this was the list of the personnel eligible for District transfer for the year 2016. It is pertinent to note that the waiting list prepared by the department i.e. SRPF after the order passed in O.A.199/2017 is not produced before this Tribunal. It is material to note that on the basis of transfer list of the year 2016, the learned counsel for the applicant asking this Tribunal to draw the inference that respondent Nos. 4 and 5 had not completed the service of 15 years as their names are not included in the list.

11. Here I would like to point out that it is possible that in the year, 2016 list when it was prepared, the respondent Nos. 4 and 5 might not have completed the service of 15 years, they might have completed the service in the year 2017 or even in the year 2018 before the order of transfer to the District Police Force, therefore on the basis of this list which is at page no. 31 to 37, it is not possible to draw the inference that this was the list prepared by SRPF, Maharashtra as per the direction given by the learned Single Bench in

O.A. 199/2017. On the contrary, after going through the list, it is not possible to accept the contention of the applicant that this list was before the authority and as per this list the respondent Nos. 4 and 5 are transferred to the District Police Force, Wardha. It is pertinent to note that it is not contention of the applicant in this O.A. that SRPF did not comply the order passed in O.A.199/2017 and waiting list for transfer was not published, therefore, inference must be drawn that the list prepared in pursuance of the order in O.A.199/2017 is not produced before the Tribunal.

12. I have already discussed that in the year 2016 the respondent Nos. 4 and 5 might have not completed 15 years service, they might have completed the service in the year 2017 or before they submitted their applications for their transfer to the District Police Force, Wardha. In the above circumstances it is not possible to accept the submission of the applicant on the basis of the list which at page no. 31 to 37 that the respondents no.1 to 3 have committed illegality by transferring the respondents no. 4 and 5 to District Police Force Wardha..

13. The second submission of the applicant is that there were 75 vacant posts and therefore the respondent Nos. 1 to 3 could have transferred 37 personnel from Group-IV to the District Police Force and in this regard the applicant is placing reliance on the

advertisement. In reply the learned P.O. has invited my attention to the letter written by the Commandant, SRPF, Group-IV, Nagpur and it is specifically informed that there were 1164 sanctioned posts and 94 posts were vacant. Thereafter it is written in hand below the Table that 1125 were the sanctioned posts and 89 posts were vacant. There is no dispute about the fact that respondent Nos. 1 to 3 have already transferred 23 personnel from Group-IV to the District Police Force in Maharashtra and all 23 personnel who are transferred were seniors to the applicant. Even on perusal of the reading which is at page nos. 31 to 37 it appears that the name of the applicant is at sr.no.56. The last personnel who is transferred from SRPF Group-IV is Dhanraj Vasant Rao Dhonde at sr.no.34 and still there are 8 senior persons to the applicant who are not transferred to the District Police Force though they are eligible and seniors to the applicant. As a matter of fact, I do not understand why the applicant placed before this Tribunal the waiting list of the applicants for District transfer of the year 2016 which is at page nos. 31 to 37 and unfortunately relying upon this list, this Tribunal has passed the interim order. Considering this fact, in my opinion there is no equity in favour of the applicant. I have already held that there is no substance in contention of the applicant that the respondent Nos. 4 and 5 had not completed 15 years service. The applicant could have produced before this Tribunal other reliable

evidence i.e. the dates of joining of the respondents Nos. 4 and 5 in service in Group-IX of SRPF. In view of the above discussed facts I am compelled to say that there is no substance in this application, therefore, the applicant is not entitled for any relief. Hence, the following order :-

ORDER

The application stands dismissed. No order as to costs.

dnk.

(A.D. Karanjkar)
Member (J).

Dated :- 02/11/2018.