

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.467/2017. (S.B.)

Vazeer Hussain Sheikh,
Aged about 52 years,
Occ-Service,
R/o 113, MLA Hostel,
Civil Lines, Nagpur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-32.
2. The Commissioner of Police,
Civil Lines, Nagpur.
3. The Police Establishment Board,
O/o The Commissioner of Police,
Civil Lines, Nagpur.

Respondents.

Shri S.V. Bhutada, the learned counsel for the applicant.
Shri A.M. Ghogre, the Ld. P.O. for the respondents.

Coram:- Shri J.D. Kulkarni,
Vice-Chairman (J).

JUDGMENT

(Delivered on this 12th day of October 2017).

Heard Shri S.V. Bhutada, the learned counsel for the
applicant and Shri A.M. Ghogre, the learned P.O. for the respondents.

2. The applicant Vazeer Hussain Sheikh is a Police Inspector and was working in the Economic Offence Wing, Nagpur. Vide order dated 4.7.2017, the applicant has been transferred to the Traffic Branch, Nagpur in a vacant post. In the order itself, it is mentioned that it has been issued with due permission of the Police Establishment Board, Nagpur and the order has been issued in the interest of administrative convenience.

3. According to the applicant, the said order is mid-tenure and mid-term.

4. According to the applicant, he joined as Police Inspector on promotion vide order dated 8.1.2017 and was temporarily posted in Economic Offence Wing, Nagpur on 11.1.2017. He was made Head of the Wing for property sell on 11.2.2017. His temporary posting in the Economic Offence Wing, Nagpur was confirmed vide order dated 4.3.2017. The respondents formed Special Investigation Team (S.I.T.) to conduct special enquiries into the cases of land grabbing and fraud by one Dilip Gwalbanshi and his gang on 27.4.2017 and the applicant was part of the said team. However, vide order dated 24.5.2017, the applicant was directed to handover all the cases of property sell and assets that was being investigated by him by Incharge Additional Commissioner of Police and others and he was directed only to investigate the Crime No. 312/2016 registered on the

complaint by Smt. Sunita Rajnish Singh and ultimately vide impugned order dated 4.7.2017, he has been transferred to Traffic Branch, Nagpur.

5. The applicant made a representation against the mid-tenure and mid-term transfer on 5.7.2017 and ultimately has filed this application.

6. According to the applicant, the impugned order of his transfer is not legal and proper and he has no experience of traffic. He will have to undergo additional training for work in traffic department and will have to spend time for understanding and studying the **loud dates**. The applicant has initiated multiple investigation against several big named land grabbers and developers in the city of Nagpur and his good work may go waste because of his transfer. He, therefore, prayed that the impugned order of transfer may be quashed and set aside.

7. The Commissioner of Police, Nagpur (R.2) has filed affidavit in reply and tried to justify the order. It is an admitted fact that, the applicant was appointed in Economic Offence Wing, Nagpur. But it is stated that it was a temporary appointment. It is further stated that the said Wing was reconstituted and that some of the cases were handed over to other officers from the applicant. According to the respondents, on 24.5.2017 the Joint Commissioner of Police, Nagpur

directed the applicant to handover all the case papers of the property complaint to the Special Investigation Team which was constituted specially for this purpose. The Joint Commissioner of Police, Nagpur also directed him vide order dated 3.6.2017 to handover the property to the State Investigation Team, since the said Team was constituted of which the Deputy Commissioner of Police (Crime) was the superior officer. The applicant, however, did not obey the orders. He did not obey the orders of the superiors particularly dated 27.4.2017 and 16.5.2017 issued by the Joint Commissioner of Police, Nagpur. He never reported to the Incharge of the Special Investigation Team and even did not obey the order dated 5.5.2017 of the Incharge of the Special Investigation Team. He used to attend the Special Investigation Team at his sweet will.

8. As regards applicant's transfer, it is stated that there was an urgent need of one officer for road safety programme due to cementing of various roads as well as construction of Metro Rail being undertaken. The said traffic branch cannot be kept vacant. Because of that, the competent authority thought it proper to transfer the applicant in the vacant post in the traffic branch. The Police Establishment Board is having power U/s 22 (2) to transfer any officer within the city at any time in public interest and on the ground of administrative exigency for maintaining law and order situation. The

respondents had obtained approval of Police Establishment Board and issued transfer order of the applicant. The applicant's contention that, the competent authority must record the reasons for transferring the employee, is denied by the respondents and it is submitted that the said issue has been dealt with by the Hon'ble High Court in W.P. No.1277/2016. The order of the Hon'ble High Court, Bench at Aurangabad dated 5.5.2016 is also placed on record at Annexure R.3. Similarly, the respondents also relied on the judgment delivered by the Hon'ble High Court of Bombay dated 20.1.2017 (Annexure R.4) in W.P. No.142000/2016, wherein it has been ruled that the recommendation of the Police Establishment Board need not contain reasons in support of the recommendation. It would be sufficient if the Police Establishment Board, in fact, peruses the documents and materials in respect of concerned employee. Subjective satisfaction arrived at by the Police Establishment Board and the transferring authority need not be probed into in detail and reasons for arriving at the conclusion need not be a matter of judicial scrutiny.

9. Perusal of the affidavit-in-reply by the respondents, clearly shows that the applicant was promoted and joined as Police Inspector on 8.1.2017. Initially he was appointed in Economic Offence Wing, Nagpur temporarily on 11.1.2017. It seems that the competent authority formed the Special Investigation Team for investigating

economic offences and property matters which was an issue in the city at that particular time and it is no doubt that the applicant was a part of such team. Thereafter, the Special Investigation Team was formed and the applicant was initially a Member of the Special Investigation Team. But subsequently, he was directed to investigate only Crime No. 312/2016. The respondents have placed on record the documents to show that the applicant was directed by the competent authority from time and again to handover the relevant papers of other crimes to the Special Investigation Team. But the applicant did not follow the orders passed by the superior officers. In short, the applicant has disobeyed the orders of the superiors and, therefore, the case of the applicant was recommended to the Police Establishment Board, Nagpur for transfer out of Economic Offence Wing. Considering the urgency of the persons to be posted in traffic branch. For the reasons already stated, the respondent authorities seem to have taken a decision to transfer the applicant to traffic branch in Nagpur city itself. In any case, the applicant has not been transferred out of Nagpur district and, therefore, no prejudice has been caused to the applicant. The transfer order of the applicant is not in any manner by way of punishment, but only with intention to see that the administration runs properly and in the interest of administrative exigency. The applicant could not place on record any documentary evidence to show that the

respondent authorities were, in any manner prejudiced against the applicant or were having any ill intention in taking him out of Economic Offence Wing for any ulterior purpose or motive. In such circumstances, the applicant cannot insist that he shall be allowed to work only in the Economic Offence Wing on a particular post. It is for the competent authority to decide how to utilize the services of particular officers and the same has been done by the respondent authorities. I, therefore, do not find any illegality in the orders passed by the competent authority.

10. 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.

11. The learned counsel for the applicant has placed reliance on the judgments reported in **(1990) 2 SCC-746 in case of Neelima Mishra V/s Harinder Kaur Paintal and others, (2006) 8 SCC in case of Prakash Singh and others V/s Union of India and others, 2012 (1) ALL MR 349 in case of Ramakant Baburao Kendre V/s State of Maharashtra and another, 2012 (3) Mh.L.J.-197 in case of S.B. Bhagwat V/s State of Maharashtra and others, 2013**

(3) Mh.L.J.-463 in case of Kishor Shridharrao Mhaske V/s Maharashtra OBC Finance and Development Corporation, Mumbai and others, 2015 (2) Mh.L.J.-679 in case of State of Maharashtra and others V/s Dr. (Ms.) Padmashri Shriram Bainade and others and AIR 1978 SC 851 in case of Mohinder Singh Gill and another V/s The Chief Election Commissioner, New Delhi and others.

12. 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 Economic Offence Wing, Nagpur to the Traffic Branch, Nagpur. None of the judgments are, therefore, applicable to the present set of facts. Since all those Judgments concerning provisions under

13. On a conspectus of discussion in foregoing paras, I do not find any reason to interfere with the order dated 4.7.2017 passed by the respondent No.2, transferring the applicant from Economic Offence Wing, Nagpur to the Traffic Branch, Nagpur. The applicant shall join the Traffic Branch, Nagpur immediately. No order as to costs.

(J.D.Kulkarni)
Vice-Chairman (J)