

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 587/2019 (S.B.)**

Shri Prashant S/o Rameshwar Swami,  
Aged about 35 years, working as  
Deputy Superintendent of Police, Sironcha, Dist. Gadchiroli  
R/o Police Station Campus Sironcha,  
Tq. Sironcha, District Gadchiroli-442 504.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through Additional Chief Secretary,  
Home Department, Mantralaya,  
Mumbai-400 032.
  
- 2) Shri Amol Ashok Mandhare,  
Aged adult, working as Probationary Dy. S.P.,  
Maharashtra Police Academy, Nashik.

**Respondents.**

---

**S/Shri M.M. & A.M. Sudame, Advocates for the applicant.**

**Shri M.I. Khan, P.O. for respondent no.1.**

**None for respondent no.2.**

---

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

---

**Date of Reserving for Judgment : 7<sup>th</sup> August, 2019.**

**Date of Pronouncement of Judgment : 14<sup>th</sup> August, 2019.**

**JUDGMENT**

**(Delivered on this 14<sup>th</sup> day of August,2019)**

Heard Shri M.M. Sudame, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for respondent No.1. None for respondent No.2.

2. The applicant joined service in the year 2012 as Dy. Superintendent of Police. Vide order dated 13/2/2019 the respondent no.1 transferred the applicant to Sironcha, District Gadchiroli. The applicant resumed duty at Sironcha on 18/4/2019. The applicant also shifted his family to Sironcha.

3. It was learnt by the applicant that probationary Dy. Superintendent of Police Mr. Jadhav who was working at Bhandara was interested in transfer at Sironcha and representation was made by Mr. Jadhav. The applicant also requested the respondent no.1 that in the event of his transfer he be posted at Kalamb Sub Division, District Usmanabad or Sub Division Ambejogai in District Beed. It is case of the applicant that all of a sudden the respondent no.1 transferred the applicant to Control Room in the office of DG and IGP (M.S.), Mumbai. It is submission of the applicant that before completion of the normal tenure he is transferred by the respondent no.1 and the transfer order is not for administrative exigency or other suitable reason, therefore, it is illegal.

4. The respondent no.1 submitted reply and justified the order on the ground that complaints were received against the work of the applicant at Sub Division Karmala, District Solapur. The first charge sheet was served on the applicant on 25/4/2019. The second charge sheet was served on 23/5/2019. It is submission of the respondent no.1 that this entire material was placed before the Police Establishment Board No.1. This material was considered in the meeting of the Police Establishment Board No.1 held on 6/6/2019 and thereafter the respondent no.1 issued order dated 11/7/2019 and transferred the applicant to the State Control Room (M.S.), Mumbai. It is submitted that this order is passed in terms of the provisions under Section 22N (2) of the Maharashtra Police Act and therefore there is no illegality in the transfer order. It is submitted that in contemplation of the departmental inquiry against the applicant, he is transferred from Sironcha to Mumbai and therefore there is no substance in the application and it is liable to be dismissed.

5. It is submission of the learned counsel for the applicant that the respondent no.1 was empowered to transfer the applicant before expiry of the normal after following the procedure laid down under Section 22N Sub Section 1 proviso. It is submitted that the alleged charge sheets were served on the applicant in respect of the irregularities committed by him while working at Karmala, District

Solapur and before it the applicant was already transferred to Sironcha, District Gadchiroli. It is submitted that it is not case of the respondents that at Sironcha, District Gadchiroli any misconduct was committed by the applicant due to which it was necessary to transfer him from Sironcha, District Gadchiroli. It is submitted that there was no administrative exigency or exceptional reason for transferring the applicant from Sironcha without completion of the normal tenure.

6. The learned counsel for the applicant has placed reliance on the Judgment in Writ Petition No. 8437/2017 the **Additional Chief Secretary, Home Department & Ano. Vs. Shri Arun Ramchandra Pawar** decided on 5<sup>th</sup> September,2018 and the Judgment in case of **S.B. Bhagwat Vs. State of Maharashtra, 2012 (3) Mh.L.J.,197**. The learned P.O. has placed reliance on Exh-R-3. The Minutes of the meeting of the Police Establishment Board No.1 held on 6/6/2019 and the Judgment in case of **Union of India & Ors. Vs. Janardhan Debanath & Ano., (2004)4 SCC,245.**, the Writ Petition No.14200/2016 in case of **State of Maharashtra Vs. Shri Siddarth Krushnarao Kasbe**, decided on 20/1/2017, Writ Petition No.8437/2017 in case of **Additional Chief Secretary, Home Department & Ano. Vs. Shri Arun Ramchandra Pawar** decided on 5<sup>th</sup> September,2018. It is submission of the learned P.O. that the recommendation of the Police Establishment Board need not contain

reasons in support of the recommendation, it would be sufficient if in fact the Police Establishment Board peruses documents and material in respect of the concerned employee. Subjective satisfaction arrived at by the Police Establishment Board and Transferring Authority need not be probed into detail and reasons for arrival at conclusion need not be a matter of judicial scrutiny.

7. In the present case it seems that the applicant was transferred vide order dated 13/2/2019 from Karmala Sub Division, District Solapur to Sironcha Sub Division, District Gadchiroli. In pursuance of this transfer order the applicant resumed duty at Sironcha. It further appears that the first charge sheet was served on the applicant on 25/4/2019 and second charge sheet was served on 23/5/2019. In both the charge sheets it was alleged that the applicant committed misconduct while working at Karmala Sub Division, District Solapur. In this regard I would like to point out that the respondent no.1 is empowered to transfer any Government servant in contemplation of the departmental inquiry, if in view of the Government for the fair inquiry it is necessary to transfer the delinquent. In the present matter it seems that the applicant was already transferred from Karmala, District Solapur to Sironcha, District Gadchiroli. It is not case of the respondents that any misconduct was committed by the applicant while working as Dy. Superintendent of

Police, Sironcha, District Gadchiroli, therefore, there is no meaning in the argument that the applicant was transferred from Sironcha to Mumbai in contemplation of the departmental inquiry. I have perused Exh-R-3 the minutes of the meeting. In this meeting decision was taken by the Police Establishment Board No.1 to transfer total 114 Police Officers. It is not shown by the respondents what special material was placed for consideration before the Police Establishment Board No.1 and what was considered by the Board on 6/6/2019. As a matter of fact it is not possible to accept that the Police Establishment Board examined individual cases of all the officers for their mid-term transfers. I have perused the Judgment in Writ Petition No.14200/2016, the facts were, that the person in possession was threatened and the accused had support of one Police Sub Inspector Mr. Birajdar. Though this aspect was within the knowledge of the respondent no.1 in the Writ Petition, he became silent spectator and consequently there was inquiry regarding the casual approach of the respondent no.1 and in view of this material the Hon'ble High Court justified his mid-term transfer.

8. In Writ Petition No.8437/2017 somewhat similar situation was examined by the Hon'ble High Court. In para-8 the Hon'ble Bombay High Court has observed that the Minutes do not record that the cases of the Officers named therein were exceptional cases or the

cases were falling in the category covered by Sub Section 2 of Section 22N in the sense that their cases were exceptional and therefore it was necessary in the public interest and for the administration to transfer them. The Hon'ble High Court also observed that the Minutes do not show application of mind, do not record satisfaction of the Members of the Board that cases of the 70 Officers mentioned in the Minutes were exceptional cases for recommending mid-term transfers and nothing was placed before the Hon'ble High Court to show that the Police Establishment Board was satisfied about the existence of the factors specified in Sub Section 2 of Section 22N of the Maharashtra Police Act. The Hon'ble Bombay High Court observed that the recording of such satisfaction was a condition precedent for passing a valid order of transfer under Sub Section 2 of the Section 22N of the Act.

9. The above observations made by the Hon'ble High Court are squarely applicable to the case in hand. I have already pointed out that it is not shown as to what matter was placed before the Police Establishment Board for consideration to justify transfers of 114 Police Officers in mid-term. So far as the applicant is concerned, after reading the Minutes of meeting, it is not possible to accept that his case was considered in detail and why police establishment board came to the conclusion that it was necessary to transfer the applicant

from Sironcha to Mumbai before completion of the normal tenure. After reading Exh-R-3 I am compelled to say that there was no substantial material before the Police Establishment Board for accepting that it was necessary to transfer the applicant in terms of Sub Section 2 of Section 22N of the Maharashtra Police Act. In view of this discussion, I am compelled to say that the respondents failed to show that there was some administrative exigency to justify the mid-term transfer of the applicant. I have already discussed that it is not case of the respondents that after joining at Sironcha any misconduct was committed by the applicant and the misconduct was of such a nature that his presence at Sironcha would cause grave prejudice to the Police Department or the public. In the result, I hold that the impugned transfer order transferring the applicant from Sironcha to Mumbai is in violation of the provisions under Section 22N of the Maharashtra Police Act and therefore it is hereby quashed. No order as to costs.

**Dated** :- 14/08/2019.

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

\*dnk...



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 signed on : 14/08/2019.  
and pronounced on

Uploaded on : 14/08/2019.