

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.29 OF 2022

**DISTRICT: NAVI MUMBAI
SUBJECT: TRANSFER**

Shri Mahesh Vasant Shrirao,)
Age 38 years, Occ. Service, R/at. 25/13, Suryodaya)
Society, Sector-48, Nerul, Navi Mumbai.) ... **Applicant**

Versus

- 1) The State of Maharashtra,)
Through the Secretary,)
Home Department, Mantralaya, Mumbai-32.)
- 2) The Director General of Police,)
Shahid Bhagat Singh Marg, Colaba)
Mumbai 400 001.)
- 3) The Commissioner of Police, Navi Mumbai.)... **Respondents**

Shri Sandeep S. Dere, learned Advocate for the Applicant.

Smt. Archana B. Kologi, learned Presenting Officer for the Respondents.

CORAM : A.P. Kurhekar, Member (J)

DATE : 11.03.2022.

JUDGMENT

1. The Applicant has challenged transfer order dated 27.12.2021 whereby he is transferred from the post of Assistant Police Inspector (A.P.I.), Commissioner of Police, Navi Mumbai to A.P.I., Commissioner of Police, Nagpur *inter-alia* contending that he is transferred mid-term and mid-tenure in contravention of Maharashtra Police Act.

2. The Applicant is serving in the cadre of A.P.I. and was posted on the establishment of the Commissioner of Police, Navi Mumbai on

28.09.2017. He claims to be entitled for 6 years tenure in Commissionerate of Navi Mumbai in terms of Section 22N(1)(d) of Maharashtra Police Act. However, he is transferred to Nagpur which is purportedly done because of the compliant made by his wife.

3. Shri S.S. Dere, learned Advocate for the Applicant has pointed out that as per minutes of Police Establishment Board (P.E.B.) the only reason to transfer to Nagpur is shown the compliant made by the Applicant's wife alleging harassment by the husband. Whereas, in file noting order dated 11.01.2022, the Applicant is shown transfer on his request. Admittedly the Applicant did not make request for transfer. Learned Advocate for the Applicant therefore submits that no case is made out for mid-term and mid-tenure transfer as contemplated under Section 22N(2) of Maharashtra Police Act and transfer is totally bad in law.

4. Whereas learned P.O. made feeble attempt to justify that the impugned transfer stating that P.E.B. is competent authority to transfer the Applicant and order is legal and valid.

5. Undisputedly, the Applicant was posted at Navi Mumbai by transfer order dated 28.09.2017. In terms of Section 22N(1)(d), he is entitled to 6 years tenure in Navi Mumbai Police Commissionerate. As such, his guaranteed tenure at Navi Mumbai Commissionerate is 6 years. True, the Applicant being Government servant has no legally vested right to continue at one place for statutory period and he can be transferred mid-tenure where it is warranted or necessitated in public interest on the ground of administrative exigencies as contemplated under Section 22(N)(2) of Maharashtra Police Act, which is as follows:-

(2) In addition to the grounds mentioned in sub-section (1), in exceptional cases, in public interest and on account of administrative exigencies, the Competent Authority shall make mid-term transfer of any Police Personnel of the Police Force :

6. Thus, it is explicit that competent authority can transfer Police Personal in public interest and on the ground of administrative exigencies mid-term. However, in present case the perusal of minutes of P.E.B-2 reveals that no such case is made out to show any administrative exigencies or public interest existed for his Transfer. Curiously he is transferred on the complaint lodged by the wife. The perusal of compliant reveals that there is matrimonial dispute between the Applicant and his wife. In complaint it is alleged that wife is subjected to harassment by the Applicant. The wife therefore requested to transfer the Applicant to the distant place from Navi Mumbai. Surprisingly P.E.B. simply obliged the Applicant's wife by transferring him to Nagpur without bothering as to whether it can be the ground of transfer under section 22N(2) of Maharashtra Police Act. Needles to mention, wife's compliant or matrimonial dispute between the Applicant and his wife cannot be ground to transfer the Applicant in the eye of law. Suffice to say the Applicant's transfer is in total contravention of Section 22(N)(2) of Maharashtra Police Act. Impugned order is thus arbitrary and non application of mind and law is evident. It deserves to be quashed and set aside. Hence the following order.

ORDER

- A) O.A. is Allowed.
- B) Impugned order dated 27.12.2021 is quashed and set aside.
- C) Interim relief granted by the Tribunal is made absolute.
- D) No order as to costs.

**Sd/-
(A.P. Kurhekar)
Member (J)**

Place: Mumbai
Date: 11.03.2022
Dictation taken by: N.M. Naik.