

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**ORIGINAL APPLICATION NO.305 OF 2022 WITH
ORIGINAL APPLICATION NO.307 OF 2022 WITH
ORIGINAL APPLICATION NO.308 OF 2022 WITH
ORIGINAL APPLICATION NO.412 OF 2022**

**DISTRICT: MUMBAI
SUBJECT : TRANSFER /
RELIEVE**

ORIGINAL APPLICATION NO.305 OF 2022

- 1) Manjit Pravin Patil,)
Age 41 years, Occ. Service,)
R/at 17B/32, Railway Police Quarters,)
Pantnagar, Ghatkopar (E), Mumbai 400 075.)
- 2) Raghunath Vishnu Sanap,)
Age 38 years, Occ. Service,)
R/at. Room No.11, Jyoti Kalash App.,)
Jai Bhavani Road, Nashik Road,)
Nashik 400101.)... **Applicant**

Versus

- 1) The State of Maharashtra,)
Through the Secretary, Home Department,)
Mantralaya, Mumbai-400 032.)
- 2) Director General of Police,)
Shahid Bhagat Singh Road, Colaba,)
Mumbai-400 001.)
- 3) The Commissioner of Police (Railways),)
Wadi Bandar, 4th Floor, Area Manager Building,)
P.D'Mello road, Sandhurst road,)
near Central Railway Godown, Mazgaon,)
Mumbai, Maharashtra 400 010.)
- 4) The Superintendent of Police (Railways),)
Aurangabad District.)... **Respondents**

WITH**ORIGINAL APPLICATION NO.307 OF 2022**

- 1) Gorakh Dhondu Gaikwad)
 Age 39 years, Occ. Service,)
 R/at Room No.2, Raghuvir Darshan,)
 Co-op. Soc. Vasudev Patil Nagar, Kongaon,)
 Bhivandi, Thane 421311.)
- 2) Shailesh Sopan Kadam,)
 Age 32 years, Occ. Service,)
 R/at. 7/401, Mohan Greenwood's Manjarli)
 Road, Badlapur West, Dist. Thane 421503.)... **Applicant**

Versus

- 1) The State of Maharashtra,)
 Through the Secretary, Home Department,)
 Mantralaya, Mumbai-400 032.)
- 2) Director General of Police,)
 Shahid Bhagat Singh Road, Colaba,)
 Mumbai-400 001.)
- 3) The Commissioner of Police (Railways),)
 Wadi Bandar, 4th Floor, Area Manager Building,)
 P.D'Mello road, Sandhurst road,)
 near Central Railway Godown, Mazgaon,)
 Mumbai, Maharashtra 400 010.)
- 4) The Commissioner of Police,)
 Thane City, Office of Near Kalawa Bridge, Thane)
 Maharashtra - 400 601.)... **Respondents**

WITH**ORIGINAL APPLICATION NO.308 OF 2022**

- 1) Gorakh Daga Chaudhari)
 Age 34 years, Occ. Service,)
 R/at Room No.11, 3rd Floor,)
 Matoshri Shivai Sadan Bldg., Jimmy Baug,)

Karpewadi, Kalyan (E), Dist. Thane.)... **Applicant**

Versus

- 1) The State of Maharashtra,)
Through the Secretary, Home Department,)
Mantralaya, Mumbai-400 032.)
- 2) Director General of Police,)
Shahid Bhagat Singh Road, Colaba,)
Mumbai-400 001.)
- 3) The Commissioner of Police (Railways),)
Wadi Bandar, 4th Floor, Area Manager Building,)
P.D'Mello road, Sandhurst road,)
near Central Railway Godown, Mazgaon,)
Mumbai, Maharashtra 400 010.)
- 4) The Superintendent of Police,)
Police Headquarter, Tokar Talav Road,)
Nandurbar - 425 412.)...**Respondents**

WITH

ORIGINAL APPLICATION NO.412 OF 2022

- 1) Dnyaneshwar Kantilal Narode)
Age 32 years, Occ. Service,)
R/at SS III, Room No.378, Sector 8,)
Koperkhairne, Navi Mumbai.)... **Applicant**

Versus

- 1) The State of Maharashtra,)
Through the Secretary, Home Department,)
Mantralaya, Mumbai-400 032.)
- 2) Director General of Police,)
Shahid Bhagat Singh Road, Colaba,)
Mumbai-400 001.)
- 3) The Commissioner of Police (Railways),)
Wadi Bandar, 4th Floor, Area Manager Building,)
P.D'Mello road, Sandhurst road,)

near Central Railway Godown, Mazgaon,)
Mumbai, Maharashtra 400 010.)

- 4) The Superintendent of Police,)
Aurangabad District, Near N10, Hudco Road,)
T.V. Center, N 10, Cidco, Aurangabad,)
Maharashtra - 431001.)...**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 : 13.12.2022.

JUDGMENT

1. In all these Original Applications the Applicants are seeking Inter District Transfer from the establishment of the Commissioner of Police, Railway to different district in terms of regulation dated 26.10.2017 approved by Home Department, State of Maharashtra.

2. Shortly stated undisputed facts giving rise to this O.A. are as under:-

The Applicants in O.A. No.305/2022 are seeking Inter District Transfer to Aurangabad Railway. The Applicants in O.A. No.307/2022 are seeking Inter District Transfer to Thane City. The Applicant in O.A. No.308/2022 is seeking Inter District Transfer to the Superintendent of Police, Nandurbar and the Applicant O.A. No.412/2022 is seeking Inter District Transfer to the establishment of the Superintendent of Police, Aurangabad (Rural). All these Applicants are seeking Inter District Transfer in terms of regulation dated 26.10.2017 whereby Home Department has approved Inter District Transfer subject to certain terms and conditions in reference to Maharashtra Police Recruitment Rules, 2011.

3. The perusal of regulation dated 26.10.2017 reveals that the minimum 8 years service is required for Inter District Transfer and in exceptional case on the ground of illness of parents, husband and wife wants to live together etc three years service is required and the transfer should not exceed 5% of sanctioned post from the establishment in which Police Constable is serving. These are material terms and conditions for Inter District Transfer. It is in terms of regulation dated 26.10.2017 the Applicant have applied for Inter District Transfer to different District and the Commissioner of Police, Railway also received NOC from their counterpart that is where the Applicants are seeking Transfer. However, despite the receipt of NOC from the concerned District, Respondent No.3 – The Commissioner of Police, Railway did not relieve the Applicants. The Applicants raised the grievance of discrimination that near about 57 constables were relieved for Inter District Transfer, though they were junior to them in terms of making an application as well as in terms of date of acceptance of NOC from the counterpart.

4. It is on the above background, the Applicants have filed these O.As. for direction to Respondent No.3 to relieve them so as to join the establishment where they are seeking transfer.

5. The contesting party is Respondent No.3 who has not relieved the Applicants and resisted the O.A. by filing Affidavit-in-Reply *inter-alia* contending that there is shortage of manpower and because of several vacancies the Applicants are not relieved.

6. Heard Shri S.S. Dere, learned Advocate for the Applicant and Smt Archana B.K., learned Presenting Officer for the Respondents.

7. Undisputedly the Applicants fulfilled all requisite terms and conditions for Inter District Transfer in terms of regulation dated 26.10.2017. Respondents have not raised any such grievance about

their ineligibility. All that Respondent No.3 raised grievance of lack of manpower. In Affidavit-in-Reply he states that total strength is 3780 and out of which 758 posts are vacant. According to the Respondent even if counterpart have given NOC in view of vacancies, from the point of administration the Applicants have been detained. Suffice to say, shortage of manpower is the only ground raised to resist the O.A. However, this stand of lack of manpower is totally unacceptable in view of admitted fact that Respondent No.3 has relieved near about 57 Police Personnel though they were junior to the Applicants in terms of date of application as well as in terms of date of acceptance of NOC. When specific query was raised, learned P.O. about relieving 57 Police Constable in 2022, she fairly concedes that it is a matter of record.

8. Notably, even some of the Police Constable were relieved during the pendency of O.A. Thus, this act of Respondent No.3 to relieve 57 Police Constable negates and contradict his stand of lack of manpower. If there was any such lack of manpower than 57 Police Constable would not have been relieved. Indeed, the Applicants being senior to them in terms of date of application as well as date of acceptance of NOC, they ought to have been given priority. However, Respondent No.3 apparently discriminated the Applicants which is violation of Article 14 of the Constitution of India.

9. At this juncture, learned P.O. stood up and sought to submit subsequently the Commissioner of Thane (O.A. No.307/2022) & the Superintendent of Police, Aurangabad Rural (O.A. No.412/2022) cancelled NOC. Indeed, the Tribunal has granted interim relief by order dated 02.05.2022 & 05.05.2022 directing the Respondents to keep the vacancies alive and interim relief in terms of prayer of O.A was granted. This being the situation, they would not have ventured to cancel the NOC which is indeed Contempt of the order of the Tribunal for which they could be hauled up.

10. Thus, what transpires from the record that the Applicant fulfilled all requisite eligible criteria in terms of regulation dated 26.10.2017 and NOC given by the concerned authority is also alive in view of interim order passed by the Tribunal. The stand taken by Respondent No.3 about shortage of manpower is totally unacceptable in view of his own act of relieving 57 Police Personnel who were infact junior to the Applicants.

11. Indeed, the Government in terms of regulation dated 26.10.2017 has taken policy decision to address the grievance of Police Personnel for Inter District Transfer so that even if they join at one establishment they could be transferred to other establishment on completion of certain period of service on the ground of family difficulties. Thus, it is sort of benevolent provision for the family welfare of Police Personnel. Needles, to mention family welfare is also one of the paramount considerations. Therefore, if Police Personnel fulfill requisite conditions in terms of regulation dated 26.10.2017 they need to be relieved for Inter District Transfer. Such Police Personnel loose his seniority. The Applicants are ready to loose their seniority as provided in regulation dated 26.10.2017.

12. I therefore see no hurdle in the way of the Applicants to get Inter District Transfer as prayed for. All these O.As are therefore required to be allowed. Hence, the order.

ORDER

- A) The Original Application Nos.305/2022, 307/2022, 308/2022 & 412/2022 are allowed.
- B) Respondent No.3 is directed to relieve the Applicants within two months from today so that they can join at their respective places.
- C) The Commissioner of Police, Aurangabad, The Commissioner of Police, Thane City, The Superintendent of Police, Nandurbar and the Superintended of Police,

Aurangabad (Rural) are directed to get the Applicants joined on their establishments.

D) No order as to costs.

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

Place: Mumbai
Date: 13.12.2022
Dictation taken by: N.M. Naik.

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