

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 727/2016.

Pradeep Ankushrao Dongre,
Aged about 56 years,
A.P.I, Police Station, Koradi,
Nagpur City, Nagpur.

Applicant.

Versus

The State of Maharashtra,
Through its Principal Secretary,
Home Department ,
Mantralaya, Mumbai

2. The Director General of Police M.S.,
Shahid Bhagatsingh Marg, Kulaba, Mumbai.

3. The Inspector General of Police,
Nagpur Range, Nagpur.

4. The Superintendent of Police,
Nagpur District (Rural),Nagpur. ----- **Respondents.**

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1. Shri T.G. Bansod, Advocate for the applicant.
 2. Shri M.I. Khan, Presenting Officer for the Respondents.

CORAM : R.B. Malik : Member (J)

DATE : 8th February, 2017

ORDER

This O.A. questions the order whereby the applicant came to be transferred from Nagpur Rural to Nagpur City and then from Nagpur City to Police Station, Koradi. The interim orders are at Annexures A-1 and A-2.

2. I have perused the record and proceedings and heard Shri T.G. Bansod, Id. counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

3. I can safely mention at the outset that the applicant is a much transferred Police Personnel. The perusal of the record would show that from 2/10/2003 to 8/9/2004 he was at Gadchiroli. From 12/9/2004 to 16/11/2011, he was at Wardha and then from 27/11/2011 to 31/5/2014 he was at Bhandara and from there he was again transferred to Wardha from 9/6/2014 to 21/1/2016 and thereafter he was transferred to Nagpur Rural. In the meanwhile it needs to be mentioned that his date of retirement is 31/1/2018 which is just about less than an year away. It may also be mentioned that

the Id. P.O. apparently seeks to make a distinction between posting and transfer. If need be this aspect of the matter shall be dealt with.

4. It is an indisputable factual position that the applicant took over at Saoner in Nagpur Rural. According to him it was a request transfer on account of his family exigencies which inter-alia envelope within itself the need to look after his septuagenarian mother who is visually handicapped. His wife is also serving at a nearby place and it apparently appears that his posting at Saoner in the evening of his service career would subserve his family. The Id. P.O. points out that the applicant himself was taking treatment at Nagpur which indicates that even at his present posting no hardship is going to cause to him.

5. Vide the impugned order dtd. 24/5/2016 the applicant came to be transferred from Nagpur Rural to Nagpur City.

6. It is a matter of record that the applicant brought O.A. No.364/2016 before this Tribunal calling into question the

order dtd. 27/5/2016 whereby he had been transferred from Saoner to Nagpur City. Quite pertinently this Tribunal made an interim order dtd. 14/6/2016 which needs to be reproduced to the extent of paras 1, 2 and 3 :-

“ Heard Shri T.G. Bansod, learned counsel for the applicant and Shri P.N. Warjurkar, learned P.O. for the respondents.

2. The applicant is an Assistant Police Inspector. He has been posted at Saoner on 14/6/2016. Vide order dated 27/5/2016, which is challenged in the present O.A., he is posted at Nagpur City.

3. Obviously, the applicant's posting is a mid-term one. On perusal of the impugned order, I find that it has no reference to the provisions of the amended Maharashtra Police Act, 1951 Specifically Section 22(N) r/w section 2(g)(6). Hence, the impugned order is stayed till further orders.”

7. The Id. P.O. pointed out that by the order dtd., 27/5/2016 and according to its requirement inasmuch as

the applicant joined his new posting on 14/6/2016, the above order of the Tribunal may not be much relevant.

8. I strongly disagree with the submission of the Id. P.O. By the very nature of things, the employer has within his control the wherewithal and machinery to make a particular order and give effect thereto, generally in good measure on paper. That does not by itself mean that the judicial orders should be automatically held to be infructuous or by any action the respondents could force a state of fait- accompli. This is not just a matter of inter partes so much as it is a matter of public policy. The said O.A. was ultimately withdrawn by the applicant probably to enable him to challenge both the orders of transfer. But that was in the month of October, 2016 and therefore in my view much after the said order was made by this Tribunal, the interim relief held the ground. For all practical purposes it needs to be mentioned that the respondents in that O.A. did not take "any cognizance" thereof. Be that as it may and whatever arguments may be made in the first place the judicial orders have to be respected

and if there is material to suggest that they have not been respected then all other considerations will pale into insignificance and that will be in regard to facts, factual issue, interpretation and all that. This in my opinion is the main reason why the impugned order cannot stand because although the said O.A. stood disposed of in October, 2016 at all time material hereto the said orders held the field and to deny to the said orders its proper place, to repeat, tantamounts to breach public policy and to make light of majesty of law and legal institutions.

9. However, even otherwise once the applicant had joined at Police Station, Saoner and worked there for whatever length of time, in my opinion, even in the present set of facts, he having started functioning at Police Station Saoner under Section 22 N (c) of the Maharashtra Police Act, 1951 he would be entitled to a tenure of 2 years. I reject all the arguments to the contrary made by the Id. P.O. He brought to my notice the fact that there was full compliance with the recommendations of the Board and the difficulties of

the applicant had been taken care of by not transferring him out of range. In my opinion however for the reasons above mentioned it will not be possible for me to accept the submissions on behalf of the respondents and the relief herein claimed will have to be granted to the applicant.

10. The orders herein impugned by way of para 8(i) and (ii) stand quashed and set aside and the respondents are directed to re-post the applicant to Police Station, Saoner within a period of 4 weeks from today. The O.A. is allowed in these terms with no order as to costs.

(R.B. Malik)
Member (J)

Skt.