

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 1042 of 2023 (SB)**

Ramesh S/o Pandurangji Yede,
aged 48 years, Occ. Service,
R/o 19, Dhangawali Nagar,
Pipla Road, Hudkeshwar, Nagpur.

Applicant.

Versus

- (1) The State of Maharashtra,
through its Additional Chief Secretary,
Home Department, Mantralaya, Mumbai-32.
- (2) The Additional Director General of Police (Traffic),
(M.S.) having its Office 6th Floor,
Moti Mahal, Near CCT Club, Opp. Samrat Hotel,
Churchgate, Mumbai-400020.
- (3) The Superintendent of Police,
Highway Police Regional Division,
Having its Office, Administrative Building No.1, 3rd Floor,
Civil Lines, Nagpur.
- (4) The Superintendent of Police (Rural),
Having its office at Opposite Account General's Office,
Civil Lines, Nagpur, Dist. Nagpur.

Respondents.

Shri S.P. Palshikar, Advocate for applicant.

Shri A.M. Khadatkhar, learned P.O. for respondents.

WITH

ORIGINAL APPLICATION No. 1043 of 2023 (SB)

Pankaj S/o Suryabhan Wasade,
aged 37 years, Occ. Service,
R/o At Bakhari, Post Nayakund Bakhari,
Nagpur.

Applicant.

Versus

- (1) The State of Maharashtra,
through its Additional Chief Secretary,
Home Department, Mantralaya, Mumbai-32.
- (2) The Additional Director General of Police (Traffic),
(M.S.) having its Office 6th Floor,
Moti Mahal, Near CCT Club, Opp. Samrat Hotel,
Churchgate, Mumbai-400020.
- (3) The Superintendent of Police,
Highway Police Regional Division,
Having its Office, Administrative Building No.1, 3rd Floor,
Civil Lines, Nagpur.
- (4) The Superintendent of Police (Rural),
Having its office at Opposite Account General's Office,
Civil Lines, Nagpur, Dist. Nagpur.

Respondents.

Shri S.P. Palshikar, Advocate for applicant.

Shri A.M. Khadatkar, learned P.O. for respondents.

WITH
ORIGINAL APPLICATION No. 1044 of 2023 (SB)

Namdeo S/o Dadaji Dodke,
Aged 47 years, Occ. Service,
R/o Plot No.101, Chakradhar Nagar, Nagpur.

Applicant.

Versus

- (1) The State of Maharashtra,
through its Additional Chief Secretary,
Home Department, Mantralaya, Mumbai-32.
- (2) The Additional Director General of Police (Traffic),
(M.S.) having its Office 6th Floor,
Moti Mahal, Near CCT Club, Opp. Samrat Hotel,
Churchgate, Mumbai-400020.
- (3) The Superintendent of Police,
Highway Police Regional Division,
Having its Office, Administrative Building No.1, 3rd Floor,
Civil Lines, Nagpur.

- (4) The Superintendent of Police (Rural),
Having its office at Opposite Account General's Office,
Civil Lines, Nagpur, Dist. Nagpur.

Respondents.

Shri S.P. Palshikar, Advocate for applicant.

Shri A.M. Khadatkhar, learned P.O. for respondents.

WITH

ORIGINAL APPLICATION No. 1045 of 2023 (SB)

Rajesh S/o Ukandrao Khadse,
Aged 47 years, Occ. Service,
R/o Near Police Head Quarter Rural, Teka Naka,
Quarter No.C-701, Nagpur.

Applicant.

Versus

- (1) The State of Maharashtra,
through its Additional Chief Secretary,
Home Department, Mantralaya, Mumbai-32.
- (2) The Additional Director General of Police (Traffic),
(M.S.) having its Office 6th Floor,
Moti Mahal, Near CCT Club, Opp. Samrat Hotel,
Churchgate, Mumbai-400020.
- (3) The Superintendent of Police,
Highway Police Regional Division,
Having its Office, Administrative Building No.1, 3rd Floor,
Civil Lines, Nagpur.
- (4) The Superintendent of Police (Rural),
Having its office at Opposite Account General's Office,
Civil Lines, Nagpur, Dist. Nagpur.

Respondents.

Shri S.P. Palshikar, Advocate for applicant.

Shri A.M. Khadatkhar, learned P.O. for respondents.

WITH

ORIGINAL APPLICATION No. 1046 of 2023 (SB)

Manish S/o Madanrao Khasnikar,
Aged 47 years, Occ. Service,
R/o Plot No.852, Mangaldeep Nagar No.2,
Manewada Besa Road, Nagpur.

Applicant.

Versus

- (1) The State of Maharashtra,
through its Additional Chief Secretary,
Home Department, Mantralaya, Mumbai-32.
- (2) The Additional Director General of Police (Traffic),
(M.S.) having its Office 6th Floor,
Moti Mahal, Near CCT Club, Opp. Samrat Hotel,
Churchgate, Mumbai-400020.
- (3) The Superintendent of Police,
Highway Police Regional Division,
Having its Office, Administrative Building No.1, 3rd Floor,
Civil Lines, Nagpur.
- (4) The Superintendent of Police (Rural),
Having its office at Opposite Account General's Office,
Civil Lines, Nagpur, Dist. Nagpur.

Respondents.

Shri S.P. Palshikar, Advocate for applicant.

Shri A.M. Khadatkar, learned P.O. for respondents.

**Coram :- Hon'ble Shri M.A. Lovekar,
Member (J).**

Date of Reserving for Judgment : 5th February, 2024.

Date of Pronouncement of Judgment : 13th February, 2024.

COMMON JUDGMENT

(Delivered on this 13th day of February, 2024)

Heard Shri S.P. Palshikar, learned counsel for the applicants and Shri A.M. Khadatkhar, learned P.O. for the respondents.

2. These O.As. are connected and involve common issue. Hence, this common Judgment.

3. These applicants were working on the establishment of Superintendent of Police, Nagpur (Rural) and they were deputed to Highway Police Centre, Nagpur. By the impugned order dated 01/09/2023 they were repatriated to their parent establishment. According to the applicants, the impugned order is bad on account of non compliance of Circular dated 07/10/2016 issued by the Special Inspector General of Police, and Section 22J-4 (b) of Maharashtra Police Act. Hence, these O.As.

4. On 01/09/2023 respondent no.2 passed the following order-

-: आदेश :-

महामार्ग पोलीस केंद्र, रामटेक येथे प्रतिनियुक्तीवर नेमणूकीस असलेले पोलीस अधीक्षक, नागपूर ग्रामीण यांच्या आस्थापनेवरील खालील नमूद पोलीस अंमलदार यांनी दि २५/०६/२०२२ रोजी म. पो. केंद्र रामटेक समोर व्हेन्टो फोक्सर्वॅगन कार क्र. HR-44F-4349 चे चालक नामे दिपक जांगरा, हैद्राबाद यांना थांबवून, त्यास धमकावून त्याच्याकडे पैशांची अवैधरित्या मागणी केल्याच्या कसुरीवरून त्यांची प्राथमिक चौकशी करण्यात आली आहे.

२. प्राथमिक चौकशी अधिकारी, तथा पोलीस निरीक्षक, महामार्ग पोलीस विभाग, नागपूर यांनी दि. २५/०८/२०२२ च्या पत्रान्वये सादर केलेल्या चौकशी अहवालातील कसुरी संबंधाने ठळक मुद्दे, चौकशी अधिकारी यांचा समाकलन अहवाल आणि पोलीस अधीक्षक, म.सु.प., नागपूर विभाग यांनी केलेली शिफारस या सर्व बाबींचे बारकाईने अवलोकन केल्यानंतर खालील अंमलदारांनी केलेली कसुरी सिध्द होत आहे, अशी माझी खात्री झालेली आहे. त्यामुळे सादर कसुरीच्या अनुषंगाने त्यांच्याविरुद्ध शिस्तभंगविषयक शिक्षेची कार्यवाही करणे कमप्राप्त आहे.

३. तथापि, खालील नमूद पोलीस अंमलदार हे पोलीस अधीक्षक, नागपूर ग्रामीण यांच्या आस्थापनेवरून महामार्ग पोलीस केंद्र, रामटेक येथे प्रतिनियुक्तीवर कार्यरत असल्यामुळे महाराष्ट्र पोलीस नियमावली १९९९ भाग-१ मधील नियम ४३९ नुसार त्यांचे विरुद्ध शिस्तभंगविषयक कार्यवाही करण्यास पोलीस अधीक्षक, नागपूर ग्रामिण हे सक्षम प्राधिकारी आहेत.

४. खालील नमूद अंमलदारांनी महामार्ग पोलीस केंद्र, रामटेक, जि. नागपूर येथे प्रतिनियुक्तीवर कार्यरत असतांना उक्त नमूद केलेल्या कसुरीच्या अनुषंगाने त्यांच्या विरुद्ध पुढील शिस्तभंगविषयक कार्यवाही करण्यासाठी त्यांना त्यांच्या मुळ घटकात म्हणजेच पोलीस अधीक्षक, नागपूर ग्रामिण यांच्या आस्थापनेवर प्रत्यावर्तीत करणे अत्यावश्यक आहे.

५. यास्तव उक्त परि. १ ते ४ वरील वस्तुस्थिती विचारात घेवून महामार्ग पोलीस केंद्र, रामटेक येथे प्रतिनियुक्तीवर कार्यरत असलेले खालील नमूद पोलीस अंमलदार यांना महामार्ग पोलीस विभागातून त्यांचे मूळ घटकात म्हणजेच पोलीस अधीक्षक, नागपूर ग्रामीण यांचे आस्थापनेवर त्वरीत प्रभावाने प्रत्यावर्तीत करण्यात येत आहे.

अ.क.	पोलीस अंमलदाराचे नांव व पदनाम
१	पोहवा/५१५ रमेश येडे
२	पोहवा/१६९२ मनिष खासनिकर
३	पोहवा/५०८ राजेश खडसे
४	पोना/१८९० नामदेव दोडके
५	पोना/१९६६ पंकज धासाडे

On the basis of aforequoted order, on the same day, respondent no.3 passed the impugned order repatriating the applicants to their parent establishment.

5. The respondents have resisted these O.As. on the following grounds. The applicants, while discharging their duties, had demanded and accepted gratification from Driver of a passing Vehicle. Assistant Police Inspector (API) Selokar of Ramtek Traffic Police had reported the incident to respondent no.3. Police Inspector (PI) Vaishali Vairagade of Traffic Police, Nagpur conducted preliminary enquiry and submitted report on 25/08/2022 concluding that there was substance in the allegations levelled against the applicants. On receipt of default report respondent no.3 issued show cause notices to the applicants, recorded their statements, conducted preliminary inquiry and submitted report dated 05/04/2023 (Annex-R-3-IV in O.A.No.1042/2023) to respondent no.2 concluding that allegations against the applicants were well founded. Respondent no.3 recommended that the applicants be repatriated to their parent establishment. Thereafter, the impugned order was passed by respondent no.2. Respondent no.3 passed consequential order on the same day directing the applicants to join their parent establishment. On 22/11/2023 respondent no.4 passed posting orders of the applicants (Annex-R-4-I in O.A.No.1042/2023). By order dated 29/11/2023 (Annex-R-4-II in O.A.No.1042/2023) respondent no.4 has initiated Departmental Enquiry against the applicants and Sub

Divisional Police Officer (SDPO), Kanhan Division is appointed as Enquiry Officer.

6. According to the respondents, all legal compliances were made before passing the impugned order and hence no interference is called for.

7. Though the applicants impugned order dated 01/09/2023 on two grounds viz. non compliance of Circular dated 07/10/2016 issued by the Special Inspector General of Police about preliminary enquiry into default report being mandatory, and non compliance of Section 22J-4 of Maharashtra Police Act, during final hearing only the second ground was agitated. In any case the first ground would have failed since record shows that there was due compliance of Circular dated 07/10/2016.

8. Section 22J-4 of Maharashtra Police Act reads as under –
Functions of Police Establishment Board at levels of specialised Agencies -

“The Police Establishment Board at the Levels of Specialized Agencies shall perform the following functions, namely :-

(a) The respective Board shall decide all transfers and postings of all Police Personnel to the rank of Police Inspector within the Specialized Agencies.

(b) The respective Board shall be authorized to make appropriate recommendations to the Police Establishment Board No. 2, regarding the postings and transfers out of the Specialized Agency, of the Police Personnel to the rank of Police Inspector.

Explanation - For the purposes of this section, the expression "Police Personnel" means a Police Personnel to the rank of Police Inspector.”

9. Para-2 of the impugned order gives chronology as follows-

२. प्राथमिक चौकशी अधिकारी, तथा पोलीस निरीक्षक, महामार्ग पोलीस विभाग, नागपूर यांनी दि. २५/०८/२०२२ च्या पत्रान्वये सादर केलेल्या चौकशी अहवालातील कसुरी संबंधाने ठळक मुद्दे, चौकशी अधिकारी यांचा समाकलन अहवाल आणि पोलीस अधीक्षक, म.सु.प., नागपूर विभाग यांनी केलेली शिफारस या सर्व बाबींचे बारकाईने अवलोकन केल्यानंतर खालील अंमलदारांनी केलेली कसुरी सिध्द होत आहे, अशी माझी खात्री झालेली आहे. त्यामुळे सादर कसुरीच्या अनुषंगाने त्यांच्याविरुद्ध शिस्तभंगविषयक शिक्षेची कार्यवाही करणे कमप्राप्त आहे.

Respondent no.2, in these cases acted on his own.

Section 22J4 (b) lays down that the respective Board shall be authorised to make appropriate recommendations to the Police Establishment Board No.2 regarding the postings and transfers out of the specialised agency, of the police personnel to the rank of Police Inspector. This procedure was not followed. Thus, there was non-compliance of Section 22J-4 (b) of Maharashtra Police Act. This flaw will be fatal. Hence, impugned order dated 01/09/2023 directing repatriation of the applicants cannot be sustained and it is accordingly quashed and set aside. The respondents are directed to pass orders necessitated by this determination, within 15 days from today. The O.As. are allowed in these terms with no order as to costs.

(M.A.Lovekar)
Member (J).

Dated :-13/02/2024.

*dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 13/02/2024.