

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.100 OF 2023

DISTRICT : PUNE

Mr. Pravinkumar Gokulgir Gosavi)
Age : 56 years, Occ : Police Constable,)
Lonawala City Police Station Pune Rural)
R/at. D-404, Florencia, Wakad, Pune.) **....Applicant**

Versus

The Superintendent of Police, Pune Rural)
Chavan Nagar, Pashan Road,)
Pune 411 008) **....Respondent.**

Mr. K.R. Jagdale, learned Advocate for the Applicant.

Mr. A.J. Chougule, learned Presenting Officer for the Respondent.

CORAM : **Justice Mridula Bhatkar (Chairperson)**

DATE : **10.08.2023.**

J U D G M E N T

1. Applicant working as Police Head Constable was transferred from Dhule to Pune (Rural) by order dated 23.02.2021.
2. Learned Advocate has submitted that on 01.03.2021 the Applicant was given posting in Pune (Rural) at Manchar, Police Station. Thereafter on 12.08.2021 the Applicant was transferred from Manchar Police Station to Lonawala City, Pune. The Applicant was relieved from Manchar Police Station on 20.08.2021 and he joined Lonawala City Police Station on 20.08.2021.

Learned Advocate has submitted that by order dated 10.01.2023 the Applicant was transferred from Lonawala City Police Station to Junnar Police Station. Learned Advocate has submitted that the Police Establishment Board (PEB) did not record the reasons for mid-term and mid-tenure transfer of the Applicant. The Applicant should not have been transferred till completion of his tenure of 5 years as per Section 22(N)(1)(b) of the Bombay Police Act, but within 1 and ½ years the applicant was transferred from Lonawala City Police Station to Junnar Police Station for which he is objecting to. The Applicant is going to retire in the month of May, 2024. In the meeting of the PEB it is mentioned that there were complaints against the applicant and therefore he is required to be transferred. However, those complaints are not inquired into. Merely, on the basis of those complaints the applicant was transferred illegally. Learned Advocate has relied on the judgment **dated 25.03.2022 passed by M.A.T. Bench Nagpur in O.A.No.20/2022, Ashish Murlidhar Raut Versus The State of Maharashtra**. He has placed reliance on paragraph 13 and 21 of the said judgment. He further relies on the ratio laid down by the Hon'ble Supreme Court in the case of **Somesh Tiwari Versus Union of India reported in (2009) 2 SCC 592**.

3. Placing reliance on the judgments learned Advocate has submitted that it is necessary to inquire into the complaints and then only the person can be transferred. In the present case, no enquiry was made with regard to the complaints received against the Applicant. On the contrary, the person who made allegations

against the applicant; Mr. Satish Shetty has stated that he did not have any grievance against the Applicant and the Applicant had not demanded and accepted the bribe from him. Learned Advocate has submitted that earlier also before he was transferred from Dhule to Pune similar allegations were made against him. The enquiry was conducted in the said matter wherein his three increments were stopped.

4. Learned Advocate for the Applicant has further submitted that the show cause notice was given on 15.06.2023 for the initiation of Departmental Enquiry. He has submitted that the reply to that was given by the Applicant on 07.07.2023 and the meeting of the PEB was conducted on 10.01.2023. He has submitted that for a period of six months no Departmental Enquiry was initiated by the Respondents. He pointed out the minutes of PEB (page 34) dated 10.01.2023. Learned Advocate Mr. Jagdale has submitted that the Applicant is making the application for transfer at some other places on the ground of his ill health. The Preliminary Enquiry report is dated 06.06.2023. The statement of Mr. Shetty was recorded on 03.02.2023 and he has not stated anything against the Police.

5. Learned P.O. while opposing has submitted that the Respondents have followed proper procedure and on account of necessity in administration the transfer order is passed. Learned P.O. has relied on the judgment of Hon'ble High Court of Judicature at Bombay Ordinary Original Civil Jurisdiction in **Writ**

Petition No.2585/2019, Dr. Soudamini S. Choudhari Versus State of Maharashtra & Ors. dated 16.12.2020. In the judgment of **Dr. Soudamini S. Choudhari (supra)** the Hon'ble Division Bench has relied judgment of Hon'ble Supreme Court in the case of **Union of India & Ors. Versus Sri Janardhan Debanath and Anr. in Appeal (Civil) No.1010-1011/2004 dated 13.02.2004.** It is held that,

“For the purposes of effecting a transfer, the question of holding an enquiry to find out whether there was misbehaviour or conduct unbecoming of an employee is unnecessary and what is needed is the prima facie satisfaction of the authority concerned on the contemporary reports about the occurrence complained of and if the requirement, as submitted by learned counsel for the respondents, of holding an elaborate enquiry is to be insisted upon the very purpose of transferring an employee in public interest or exigencies of administration to enforce decorum and ensure probity would get frustrated. The question whether respondents could be transferred to a different division is a matter for the employer to consider depending upon the administrative necessities and the extent of solution for the problems faced by the administration. It is not for this Court to direct one way or the other.”

6. Learned P.O. has produced the panchanama dated 30.12.2022 drawn by the prosecution. Considered the minutes of PEB. It shows that the offence is registered on 30.12.2022. The Lonawala City Police have raided the Sudarshan Lodge and offence is registered at C.R.No.244/2022 for the offence of allowing immoral trafficking. It was revealed that the Applicant allowed to continue such immoral trafficking for other consideration though being Police Naik that particular area was coming under his jurisdiction. The submissions of learned Advocate that the

accused Mr. Shetty has given affidavit that he did not give bribe to any Police Personnel at any time and especially not to the Applicant is in favour of the Applicant are baseless as the Police Officer of that particular Police Station has conducted separate Preliminary Enquiry and on the basis of the material collected based on this raid is found satisfactory to form an opinion that the case of the Applicant is to be proposed before the PEB for his transfer. On the contrary, Mr. Shetty's statement shows how the Applicant can pressurize the witness. The minutes of PEB dated 10.01.2023 disclose that the Members of PEB have taken into account the said conduct and the incidence of raid and also have referred to his earlier record when he was posted at Chakan and they found that he used to take bribe for continuation of illegal business and therefore he was transferred him to Dhule. In the case of **Somesh Tiwari (supra)** the Hon'ble Supreme Court has dealt with the issue of entitlement to salary of the Appellant for the period of 15 days, between the period of two transfer orders i.e. Bhopal to Ahmedabad and Ahmedabad to Bhopal. Thus, the issue was different and hence not applicable.

7. Under such circumstances, nothing can be faulted with this particular PEB minutes.

8. In view of above, O.A. stands dismissed.

Sd/-
(Mridula Bhatkar, J.)
Chairperson