

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.162 OF 2019

DISTRICT : PUNE

Shri Nandraj Tukaram Gabhale.)
Age : 32 Yrs, Working as Police Sub Inspector,)
Residing at Arun Sakhare, Krishnai Heights,)
Near Maruti Mandir, Hinjewadi, Shivaji Chowk,)
Tal.: Mulshi, District : Pune.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through Additional Chief Secretary,)
Home Department, Mantralaya,)
Mumbai – 400 032.)
2. The Commissioner of Police.)
Pimpri-Chinchwad Police Commissionerate))
Premlok Park, Chinchwad,)
Pimpri-Chinchwad, Pune – 411 033.)...**Respondents**

Mrs. Punam Mahajan, Advocate for Applicant.

Mrs. K.S. Gaikwad, Presenting Officer for Respondents.

CORAM : SHRI A.P. KURHEKAR, MEMBER-J

DATE : 07.02.2020

JUDGMENT

1. The Applicant has challenged the impugned order dated 14th February, 2019 whereby he was relieved from Hinjewadi Police Station, Pimpri-Chinchwad Commissionerate, Pune invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. Shortly stated facts giving rise to this application are as under :-

The Government of Maharashtra has established new Police Commissionerate viz. Pimpri-Chinchwad Police Commissionerate in 2018. In view of creation of new police station, 82 Police Personnel including the Applicant, who was serving as P.S.I. at Hinjewadi Police Station was transferred on the establishment of Pimpri-Chinchwad Police Commissionerate. However, suddenly by order dated 14th February, 2019, he was relieved directing him to join Police Commissionerate, Pune. This order is challenged in the present O.A. contending that it is mid-term and mid-tenure transfer and in violation of provisions of Maharashtra Police Act, as there is no approval of Police Establishment Board (PEB).

3. Smt. Punam Mahajan, learned Advocate for the Applicant has pointed out that in view of creation of new Police Commissionerate viz. Pimpri-Chinchwad Police Commissionerate, by order dated 14th August, 2018 passed by Police Commissioner, Pune, the Applicant along with 82 Police Personnel were transferred on the establishment of Pimpri-Chinchwad Police Commissionerate. The order dated 14th August, 2018 is at Page Nos.14 to 37 of Paper Book. She, therefore, submits that once the Applicant had become employee of Pimpri-Chinchwad Police Commissionerate and had not completed normal tenure, the impugned order issued under the garb of repatriation to Pune Police Commissionerate is in contravention of provisions of Maharashtra Police Act. In this behalf, she referred to various decisions rendered by this Tribunal arising from similar situation.

4. Whereas, Smt. K.S. Gaikwad, learned Presenting Officer sought to contend that the order dated 14.02.2019 is not transfer order, but it is repatriation of the Applicant to his original establishment i.e. Police Commissioner, Pune, and therefore, it does not require approval of PEB as contemplated under Maharashtra Police Act.

5. Thus, admittedly, there is no approval to the order dated 14.02.2019 by PEB. The order dated 14.02.2019 is passed by Police Commissioner, Pimpri-Chinchwad stating that they are relieved and were required to join Police Commissionerate, Pune on administrative ground. As such, there is no denying that the Commissioner, Pimpri-Chinchwad without consulting PEB passed the impugned order.

6. Now, the question comes whether the impugned order can be termed mere repatriation or it has trapping of transfer attracting the compliance of provisions of Maharashtra Police Act.

7. As stated above, in view of creation of new Police Commissionerate viz. Pimpri-Chinchwad Police Commissionerate, by order dated 14th August, 2018, the Police Commissioner, Pune has transferred 82 Police Personnel to the establishment of Pimpri-Chinchwad Police Commissionerate. That time, the Applicant was serving on the post of P.S.I. at Hinjewadi Police Station. In view of creation of Pimpri-Chinchwad Police Commissionerate, the Hinjewadi Police Station which was earlier in Pune Commissionerate has been included in the jurisdiction of Pimpri-Chinchwad Police Commissionerate. What is material to note that there is specific mention in the order dated 14th August, 2018 that in terms of G.R. issued by Government on 28.05.2018 about the creation of posts, 82 Police Personnel were transferred on the establishment of Pimpri-Chinchwad Police Commissionerate. The name of Applicant is at Serial No.5 in the list of Police Personnel. This being the position, once they were transferred on the establishment of newly created Pimpri-Chinchwad Police Commissionerate, they became part and parcel of new establishment viz. Pimpri-Chinchwad Police Commissionerate. There is nothing in the order dated 14th August, 2018 to indicate that the Applicant was temporarily deputed in Pimpri-Chinchwad Police Commissionerate, therefore, the submission advanced by the learned P.O. that the Applicant was on the establishment of Pune

Police Commissionerate, and therefore, repatriated by order dated 14.02.2019 can hardly be accepted.

8. Once the Applicant has become part of Police Personnel of Pimpri-Chinchwad Police Commissionerate, then he cannot be shifted back under the garb of relieving order without placing the matter before PEB. According to learned P.O, they were surplus, and therefore, they were required to be repatriated. Even in that circumstances also, the matter ought to have been placed before the PEB for such alleged repatriation it being amounting to transfer to different Police Commissionerate. Suffice to say, once the Applicant has become part and parcel of establishment of Pimpri-Chinchwad Police Commissionerate, he cannot be shifted back under the garb of repatriation to Pune Police Commissionerate.

9. Admittedly, there is no publication of establishment of PEB at Pimpri-Chinchwad Police Commissionerate in Official Gazette, as mandated in Section 22-I(1) which *inter-alia* mandates that the State Government shall by notification in the Official Gazette constitute a Board to be called PEB at Commissionerate level for the purposes of compliance of provisions of Maharashtra Police Act.

10. Indeed, the issue involved in the present O.A. was subject matter of **O.A.No.843/2018 (Ajay Bhapkar Vs. Additional Commissioner of Police, Pimpri-Chinchwad Police Commissionerate) decided on 01.01.2019, O.A.No.57/2019 (Anmol N. Khude Vs. State of Maharashtra) decided on 15.03.2019** wherein the orders of transfer in similar situation were quashed. Those orders were not challenged before the higher forum and has been implemented.

11. In view of above, there is no escape from the conclusion that the impugned order dated 14.02.2019 is not sustainable in law and deserves to be quashed. Hence, the following order.

ORDER

- (A) The Original Application is allowed.
- (B) The impugned order dated 14.02.2019 qua Applicant is hereby quashed and set aside.
- (C) The interim relief granted by this Tribunal on 22.02.2019 is made absolute.
- (D) No order as to costs.

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

Mumbai
Date : 07.02.2020
Dictation taken by :
S.K. Wamanse.

D:\SANJAY WAMANSE\JUDGMENTS\2020\Fehruary, 2020\O.A.162.19.w.2.2020.Transfer.doc