

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 199 of 2017**

- 1) Mr. Dhanraj Vasantrya Dhonde,
Aged about 39 years, Occ. Service (AHC)
R/o Govt. Quarter, SRPF, Group-IV,
Nagpur (M.S.)
- 2) Mr. Santosh Digambar Sangole,
Aged about 41 years, Occ. Service (AHC)
R/o Govt. Quarter, SRPF, Group-IV,
Nagpur (M.S.)
- 3) Mr. Pravin Madhukar Lanjewar,
Aged about 44 years, Occ. Service (AHC)
R/o Govt. Quarter, SRPF, Group-IV,
Nagpur (M.S.)
- 4) Mr. Mahendra Janrao Maske,
Aged about 41 years, Occ. Service (AHC)
R/o Govt. Quarter, SRPF, Group-IV,
Nagpur (M.S.)
- 5) Mr. Sanjay Sadashiv Thakre,
Aged about 44 years, Occ. Service (AHC)
R/o Govt. Quarter, SRPF, Group-IV,
Nagpur (M.S.)
- 6) Mr. Vijay Namdeorao Deulkar,
Aged about 43 years, Occ. Service (AHC)
R/o Govt. Quarter, SRPF, Group-IV,
Nagpur (M.S.)
- 7) Mr. Satish Tatyaji Garade,
Aged about 44 years, Occ. Service (AHC)
R/o Govt. Quarter, SRPF, Group-IV,
Nagpur (M.S.)

- 8) Mr. Sandeep Arvindrao Lohi,
Aged about 43 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 9) Mr. Lankesh Nanaji Joshi,
Aged about 41 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 10) Mr. Vinodkumar Ramsamuj Tiwari,
Aged about 41 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 11) Mr. Sanjay Deoraj Pendor,
Aged about 48 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 12) Mr. Shivkumar Chotelal Munda,
Aged about 41 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 13) Mr. Rajesh Narayanrao Bandiwar,
Aged about 41 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 14) Mr. Dhananjay Janrao Wange,
Aged about 37 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 15) Mr. Sunil Subhashrao Chavhan,
Aged about 37 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 16) Mr. Manish Dnyaneshwar Vaidya,
Aged about 37 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)

- 17) Mr. Mahesh Bhila Bachhe,
Aged about 36 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 18) Mr. Shyam Vasanttrao Ujjainkar,
Aged about 37 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 19) Mr. Prashant Ramesh Kale,
Aged about 36 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 20) Mr. Ashwin Shivlochan Mishra,
Aged about 35 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 21) Mr. Rahul Arvind Mankar,
Aged about 34 years, Occ. Service (AHC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 22) Mr. Anand Umedsingh Rawat,
Aged about 49 years, Occ. Service (ASI)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 23) Mr. Suresh Champatrao Lothe,
Aged about 49 years, Occ. Service (ASI)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 24) Mr. Vijay Eknath Gaikwad,
Aged about 44 years, Occ. Service (ASI)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)

- 25) Mr. Jagdish Shamrao Kamatwar,
Aged about 42 years, Occ. Service (ASI)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 26) Mr. Badal Kaluram Rathod,
Aged about 43 years, Occ. Service (ASI)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 27) Mr. Prakash Harisingh Gujar,
Aged about 39 years, Occ. Service (ASI)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 28) Mr. Vinod Wamanrao Dakhore,
Aged about 39 years, Occ. Service (ASI)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)
- 29) Mr. Dilip Bhivaji Darpude,
Aged about 42 years, Occ. Service (APC)
R/o Govt. Quarter,SRPF, Group-IV,
Nagpur (M.S.)

Applicants.

Versus

- 1) The State of Maharashtra,
through its Additional Chief Secretary,
Home Department, Mantralaya, Mumbai-32.
- 2) Director General of Police,
Maharashtra State, Mumbai.
- 3) Additional Director General of Police,
SRPF, Maharashtra State, Mumbai.

Respondents

Shri S.C. Deshmukh, Advocate for the applicant.

Shri A.M. Ghogre, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

Dated :- 11th October, 2017.

Heard Shri S.C. Deshmukh, the learned counsel for the applicant and Shri A.M. Ghogre, Id. P.O. for the respondents.

2. In this O.A. the applicant nos. 1 to 21 are working as Armed Head Constables in SRPF, Group-IV, Nagpur. The applicant nos. 22 to 28 are working as Assistant Sub-Inspector in SRPF, Group-IV, Nagpur. The applicant no. 29 is working as Armed Force Police Constable in the same Group at Nagpur. All the applicants are working from last 15 years or more and some of the applicants are even working from 1986 onwards and have completed almost 30 years in the SRPF.

3. The applicants are claiming direction to respondents to publish a waiting list of eligible and willing personnel for transfer from SRPF to District Police Force as per applications called vide letter dated 7/3/2017 as per Circular dated 19/9/2001 and to transfer the applicants at their place of choice and seniority. The Prayer Clause (iii) is not pressed at this juncture and the applicants will be at liberty to file separate O.A. for that purpose if their grievance is not redressed.

4. The learned counsel for the applicant has invited my attention to G.R. dated 19/9/2001 where there was earlier a policy to

transfer the Constabulary from one department to other after completion of 10 years service. Subsequently vide G.R. dated 21/10/2016 the said period of 10 years was extended to 15 years. In spite such specific Govt. policy, the respondents are not following the same and the employees like applicants are not being considered for transfer. On the contrary some of the juniors are being favored for want of specific implementation of the policy.

5. The learned counsel for the applicant has placed reliance on the Judgment reported in O.A.446/2014 with MISC Application no. 281/2014 in the case of **Nitin Vasant Parale & Ors. Vs. State of Maharashtra and ors.** decided by this Tribunal at Mumbai Bench on 9/7/2014. In the said Judgment necessary directions were also issued to the respondent authorities so as to implement the various Circulars. It was observed Para nos. 8 to 10 as under :-

“8.The actions of the respondents are, accordingly, scrutinized in the light of the aforesaid judgments of Hon. Supreme Court. It is an admitted fact that the State Government has a policy of transfer of eligible and willing personnel from SRPF to the State Police, Primary objective of the policy is (a) to give opportunity to the personnel in SRPF to stay with their families and attend to their family problems, and (b) to strengthen the District Police by inducting young and trained manpower. This policy objective has to be considered along with the very rational for creating a force like SRPF, whose job is to aid the State Police in maintaining law and order and for internal security. It goes without saying that if the State Police is sufficiently efficient and capable, the occasions to call the SRPF to its aid will be fewer as compared to a situation when the District Police Force is not sufficiently strong. By transferring personnel from SRPF to State Police, combined law and order machinery in the

State does not suffer as trained manpower is transferred from one arm to the other. The mode of recruitment to State Police and SRPF is identical at the lowest level. The training of Constables in SRPF and the State Police is both for 9 months. If the State Police gets 10% of its vacant posts filled from SRPF by drawing trained personnel, the gap can be filled by SRPF by recruiting equal number of fresh personnel. We are unable to appreciate as to how transfer of personnel from SRPF to the State Police will adversely affect maintenance of law and order and/or internal security in the State when both SRPF and State Police are responsible for the same.

9. Let us now examine this issue considering the sanctioned strength and vacancies in SRPF. The respondents have given the figures of sanctioned strength of SRPF which is 16316 and as on 18/6/2014, 14617 persons working, leaving 1699 posts vacant. If we see the vacancy position of last few years the following situation emerges :-

Sr.No.	Year	Vacancies	No. of personnel transferred
1.	2011	2080	931
2.	2012	No recruitment	--
3.	2013	1431	582
4.	2014	1699	--

This information, is sufficient to draw any firm conclusion. It can, however, be assumed that every year around 1500-1600 vacancies occur in SRPF. In fact in 2011, there were 2080 vacancies, which were all filled. The applicants have also supplied information of those who were transferred from SRPF to State Police during last four years, which is as follows :-

Sr.No.	Year	No. of personnel transferred	Percentage (%)
1.	2010	693	4.5%
2.	2011	1031	7.5%
3.	2012	162	1%
4.	2013	420	3%

The applicants have enclosed copies of actual transfer orders, so the figures can be presumed to reflect the actual position. Even in the year 2012, when admittedly no recruitment was there in SRPF, 162 persons were transferred to the State Police. In 2011, 1031 persons were transferred. There was no difficulty in filling the resultant vacancies. It is evident that in a big organization like SRPF, every year there will be a large number of vacancies. Such vacancies can be predicted with reasonable accuracy. The number of persons who are eligible for transfer, can be determined keeping in mind the recruitment and training capacity. In fact, the circular issued by the respondent no.4 for Police Recruitment for 2014 dated 23/4/2014 has this to say about how to calculate the likely vacancies.

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It would be possible to calculate the number of vacancies in SRPF, after adding the personnel who could be transferred to district police, on the basis of applying some reasonable criteria. It is presumed that while transferring personnel from SRPF in the past, some criteria must have been applied. Government circular dated 19/9/2001 provides that the respondent no.3 will keep district wise waiting lists of SRPF personnel, who are eligible to be transferred to the State Police. Depending on the number of vacancies in each district (upto 10% could be filled by transfer from SRPF) and seniority of persons in the lists, it is possible to arrive at some reasonable criteria for transfer of SRPF personnel, which will not adversely affect the manpower shortage in SRPF. Some shortage is inevitable and that may be taken into account

while fixing criteria for transfer. Considering all these aspects, we are unable to hold that the shortage of manpower in SRPF this year is abnormal which will necessitate banning completely transfer of personnel from SRPF. It was possible to anticipate shortage and to take corrective steps. It will be arbitrary to stop transfer this year, defeating the object of Government policy in this regard and it will adversely affect the interest of the persons like the present applicants. Such an act will not pass the test laid down by Hon. Supreme Court that in the judgments referred to above that change in well laid policy should not be arbitrary.

10. Having regard to the aforesaid facts and circumstances, relief sought in prayer clause 9 (a) is granted. As out of 1690 of vacancies in the year 2014, 1586 have been filled, it should be possible to transfer some personnel from SRPF to the State Police by devising a reasonable criterion and the resultant vacancies could be filled next year. The respondents may take action accordingly and complete the transfer of willing and eligible personnel from SRPF to State Police in terms of Government circular dated 19/9/2001 within a period of three months from the date of this order. In view of the order passed in the Original Application, M.A.No.281/2014 does not survive. There will be no order as to costs."

6. The State preferred the Writ Petition against the said order but the Hon'ble High Court in Writ Petition no.10492/2014 was pleased to reject the Writ Petition on 9/3/2015.

7. The learned counsel for the applicant submits that the cases of the applicants are covered by the Judgment passed by this Tribunal. The learned P.O. admits that with minor differences, the principle applies. In view thereof, the following order :-

ORDER

The application stands disposed of with direction to respondents to publish a waiting list of eligible and willing personnel for transfer from SRPF to District Police Force as per applications called vide letter dated 7/3/2017 in view of the Circulars dated 19/9/2001 and 21/10/2016. Such list shall be published within three months from the date of this order. Fresh application may be called from the eligible employees due for transfer in such list and an order of such employees shall be issued within six months or at the time of general annual transfers of 2018. The respondents are directed to consider request of the applicants considering their choices and seniority as prayed by them in their respective representations within six months or in any case at the time of general annual transfers of 2018. No order as to costs.

(J.D.Kulkarni)
Vice-Chairman(J)

dnk.