

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.225 OF 2023

DISTRICT : RAIGAD

Sub.:- Transfer

Shri Kiran Ramesh Koli.)
Age : 46 Yrs, Working as Assistant)
Sub-Inspector at SRPF Group No.11,)
Navi Mumbai, Camp Balegaon and)
R/o. Giriraj Apartment, Pl-25, R-13,)
Near Kalan Samaj Hall, Old Panvel,)
District : Raigad.)...**Applicant**

Versus

1. The Additional Director General)
of Police, S.R.P.F. Camp, Group No.)
VIII, Goregaon, Mumbai – 400 065.)
2. The Commandant,)
S.R.P.F, Group No.11, Camp)
Balegaon, Navi Mumbai and)
R/o. Room No.21, Om-Shiv-satyam)
Building, Shivjinagar, Rabodi,)
Thane (W).)...**Respondents**

Shri Arvind V. Bandiwadekar, Advocate for Applicant.

Shri A.J. Chougule, Presenting Officer for Respondents.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 13.06.2023

JUDGMENT

1. The Applicant has challenged the order dated 12.01.2023 issued by Respondent No.1 – Additional Director General of Police, SRPF,

Goregaon, Mumbai whereby his application for transfer in Navi Mumbai Police Commissionerate has been rejected because of letter dated 01.11.2022 issued by Respondent No.2 – Commandant, SRPF, Thane.

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

The Applicant is Assistant Sub-Inspector (ASI) in SRPF on the establishment of Respondent No.2 and completed more than 15 years' service. After completion of 15 years' service, he had applied for transfer from SRPF to Police Force in 2019 in terms of Circular dated 21.10.2016 as well as 10.12.2018 issued by Home Department which *inter-alia* provides for transfer of SRPF Personnel to District Police Force on completion of 15 years' service on the basis of seniority. In accordance to said scheme, the Applicant applied for transfer from SRPF to Raigad District Police. Applicant belongs to Special Backward Class (SBC) category. Since there was no vacancy of the said category on the establishment of District Police Force, Raigad, he was not transferred to Raigad and continued in SRPF. After waiting for near about 3 years, Applicant again made request on 25.10.2022 to Respondent No.1 – Additional Director General of Police, SRPF for his transfer in District Police Force in Navi Mumbai or Thane City or Railway Police in view of fresh recruitment drive undertaken by these Districts. However, Respondent No.2 – Commandant, SRPF by his letter dated 01.11.2022 informed to Respondent No.1 that in 2019, Applicant had already opted for transfer to Raigad District, and therefore, now his request for transfer to District Police Force in Navi Mumbai or Thane City or Railway Police cannot be considered. It is on the basis of letter dated 01.11.2022 issued by Respondent No.2 – Commandant, his request application was filed and it was communicated to him by Respondent No.1 vide letter dated 12.01.2023. The Applicant has, therefore, challenged the communication dated 12.01.2023 in the present O.A.

3. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for Respondents.

4. Thus what transpires from the record that in terms of scheme formulated by Home Department, SRPF Personnel on completion of 15 years' service are entitled to transfer in District Police Force as per their seniority whenever recruitments take place. In 2019, the Applicant had applied for transfer to Raigad District Police Force, but that time, there was no vacancy of his category, and therefore, it was not materialized. Applicant, therefore, continued in SRPF.

5. After 3 years, he again made fresh application on 25.10.2022 giving options of District Police Force in Navi Mumbai or Thane City or Railway Police, but Respondent No.2 – Commandant opposed it on the ground that in 2019, Applicant had already applied for transfer to Raigad District, and therefore, his request for transfer in fresh recruitments undertaken by District Police Force in Navi Mumbai or Thane City or Railway Police cannot be entertained.

6. In view of submissions, the small issue posed for consideration is whether only because in 2019 Applicant has given option of Raigad Police which was not materialized because of non-vacancy is he prevented from making fresh application in view of fresh recruitments drive undertaken by District Police Force in Navi Mumbai or Thane City or Railway Police.

7. The learned Presenting Officer Shri A.J. Chougule sought to contend that though there was no vacancy at Raigad in 2019, now vacancy is available and, therefore, Applicant cannot resile from his claim of transfer in Raigad Police. In this behalf, he referred to letter dated 28.02.2023 issued by Raigad Police wherein it is stated that still there are no vacancies of SBC to which Applicant belongs, but Applicant

can be accommodated in District Police Force on the post of Police Constable.

8. Notably, presently Applicant is ASI. Now by communication dated 28.02.2023, the Raigad Police has shown willingness to accommodate him on the post of Police Constable subject to Undertaking of the terms and conditions mentioned therein.

9. Thus what transpires from the record that Applicant was eligible for transfer from SRPF Police to District Police Force having completed 15 years' service in terms of the scheme formulated by Home Department. The Applicant is ready to abide by the terms and conditions mentioned in the scheme about seniority, etc. Now, the issue is whether Applicant is barred or prohibited from making another request for transfer to District Police Force in Navi Mumbai or Thane City or Railway Police as opted by him in his letter dated 25.10.2022. True, in 2019, he had applied for transfer to Raigad Police and his name was also forwarded to Raigad Police, but there was no vacancy, and therefore, it was not materialized. As such, this is not a case where he was given transfer and posting in Raigad District Police Force and later seeking change in the posting in another District. Indeed, his request for transfer in Raigad District Police Force was not materialized for want of vacancy. He waited for 3 to 4 years and in view of fresh recruitment drive by District Police Force in Navi Mumbai or Thane City or Railway Police, he again applied giving the options. This being so, the Respondent No.2 – Commandant, SRPF ought to have forwarded his application to Respondent No.1 – Additional Director General of Police for further compliance. However, Respondent No.2 – Commandant, SRPF informed to Respondent No.1 that since in 2019 Applicant had already applied for transfer to Raigad District, now his request for transfer to other Districts cannot be considered.

10. During the course of hearing repeatedly pertinent question was asked to learned P.O. as to whether there is any bar or prohibition in the

scheme for making fresh request. However, he could not point out any specific provision to that effect. All that he referred letter dated 15.03.2019 and the contents are as under :-

“५/- दरम्यानच्या काळात काही कर्मचा-यांची जिल्हा बदली बाबतची समस्या दूर झालेली असते तर काही कर्मचारी यांची समस्या दूर होत नाही अशावेळी या कार्यालयाकडून जिल्हा बदलीचे आदेश निर्गमित झाल्यानंतर अनेक कर्मचारी त्यांची झालेली बदली रद्द करण्या करीता या कार्यालयाकडे अर्ज करतात. त्यामुळे इतर कर्मचारी यांच्यावर अन्याय होत असल्याबाबतचे या कार्यालयाच्या निदर्शनास आले आहे. म्हणून याबाबत खालील प्रमाणे मार्गदर्शनपर बाबी स्पष्ट करण्यात येत आहेत.

१) बदली रद्द करण्यात आलेल्या कर्मचा-यांनी जिल्हा बदली होण्याकरिता पुन्हा अर्ज केल्यास त्याची बदली रद्द केल्याच्या दिनांकापासून ५ वर्षांच्या कालावधीपर्यंत त्याचा पुन्हा जिल्हा बदलीसाठी विचार करण्यात येऊ नये.

२) ५ वर्षे पूर्ण झाल्यानंतर सदर कर्मचा-याच्या नावाच्या त्याच्या सेवानिष्ठतेनुसार पसंतीच्या जिल्ह्यामध्ये प्रतीक्षायादीमध्ये समावेश करण्यात यावा.

३) अशा कर्मचा-यांचा उपरोक्त शासन परिपत्रकातील अटी व शर्तीनुसार त्यांच्या सेवानिष्ठतेप्रमाणे जिल्हा बदलीसाठी विचार करण्यात येईल.

६/- समादेशक यांनी सदरची बाब सर्व कर्मचा-यांच्या निदर्शनास आणून द्यावी.”

11. As per the aforesaid conditions, it is only in a case of cancellation of transfer, the employee cannot ask for transfer again for next five years from the date of cancellation of transfer. As such, the plain and simple meaning is that, once Police Personnel asked for transfer, he cannot apply again for transfer to District Force for five years from the date of cancellation of transfer. Whereas in the present case, the transfer of the Applicant to Raigad Police was not at all materialized for want of vacancy and Applicant continued in SRPF. This being so, the instructions mentioned in letter dated 15.03.2019 reproduced above are not at all attracted. It is only in a case transfer order is issued but it was cancelled on the request of concerned, in that event only, such employee again cannot ask for transfer to District Police Force for five years. However, in the present case, the transfer of the Applicant was not at all materialized for want of vacancy and he continued in SRPF. This being the situation, there being no bar or any such provision in law or in scheme for not considering the request made by the Applicant for transfer to other Districts in fresh recruitment his application ought to have forwarded. Suffice to say, the stand taken by Respondent No.2 – Commandant that Applicant now cannot apply for transfer in other Districts is totally

illogical and arbitrary. It is totally indefensible and liable to be quashed and set aside. The Respondent No.2 – Commandant is required to forward the Applicant’s request letter dated 25.10.2022 to Respondent No.1 – Additional Director General of Police for further necessary action in accordance to scheme and Rules. Hence, the order.

ORDER

- (A) The Original Application is allowed partly.
- (B) Impugned order dated 12.01.2023 issued by Respondent No.1 is quashed and set aside.
- (C) The Respondent No.2 – Commandant, SRPF is directed to forward Applicant’s application dated 25.10.2022 to Respondent No.1 – Additional Director General of Police, SRPF for further necessary action in accordance to scheme and Rules within one month from today.
- (D) Respondent No.1 is directed to take further necessary action in accordance to scheme for transfer of the Applicant to District Police Force as per the scheme and options given by him within one month from the date of receipt of communication by Respondent No.2. The decision be communicated to the Applicant within two weeks thereafter.
- (E) No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Mumbai

Date : 13.06.2023

Dictation taken by :

S.K. Wamanse.

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