

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.400 OF 2023**

**DISTRICT: MUMBAI**  
**Subject: Inter District Transfer**

1. Shri Isak Jafar Korbu )  
Age: 40 yrs, Occ: Police Head Constable, )  
on deputation at Police Training Centre, )  
Marol, Andheri, Mumbai. )  
R/o. Building No.1, Room No.62, Naigaon )  
Police Head Quarter, Naigaon, Dadar (E), )  
Mumbai 14. )

**VERSUS**

1] The Additional Director General of Police )  
State Reserve Police Force, (M.S.), Mumbai )  
O/at State Reserve Police Force, Group )  
No.8, Campus Compound, Goregaon (E), )  
Mumbai. )  
2) The Commandant, State Reserve Police )  
Force, Group No.8, Goregaon, Mumbai. )  
3) The Commissioner of Police, Mumbai )  
having office at Crawford Mkt. Mumbai. )..**RESPONDENTS**

**Shri A.V. Bandiwadekar, learned Advocate for the Applicant.**

**Smt. Archana B. K., learned Presenting Officer for the Respondents.**

**CORAM : Shri Debashish Chakrabarty, Member (A)**

**RESERVED ON : 07.09.2023**

**PRONOUNCED ON : 13.12.2023**

**J U D G M E N T**

1. The Applicant Shri Isak Jafar Korbu is working as Police Head Constable in the establishment of Commandant; SRPF Group No.8, Mumbai and presently on deputation to the establishment of Principal; PTC Marol Andheri, Mumbai. The Applicant has invoked the provisions of Section 19 of The Administrative Tribunal Act, 1985 to seek Inter District

Transfer from the establishment of Commandant; SRPF Group No.8, Mumbai to the establishment of Commissioner of Police; Greater Mumbai.

2. The Applicant was represented by Shri A.V. Bandiwadekar, learned Advocate and the Respondents were represented by Smt. Archana B. K., learned Presenting Officer.

3. The learned Advocate for the Applicant stated that initially Applicant was appointed on the post of Police Constable on 21.09.2006 in the establishment of Commandant; S.R.P.F. Group No.10, Solapur. Subsequently on 30.07.2013, he came to be posted on deputation to the establishment of Principal; P.T.C. Marol Andheri, Mumbai in view of the need for immediate treatment of his daughter at the Tata Memorial Hospital, Mumbai as she was suffering from 'Acute Lymphoblastic Leukemia' which is type of 'Blood Cancer'. The Applicant had made representation on 04.12.2013 seeking extension of deputation in the establishment of Principal; PTC Marol Andheri, Mumbai but instead the Applicant came to be repatriated to the establishment of Commandant; S.R.P.F. Group No.10, Solapur on 20.12.2014. However, thereafter as per order dated 30.06.2015 issued on compassionate grounds by Additional DGP SRPF; Maharashtra State, Mumbai; the Applicant was posted back on deputation from the establishment of Commandant; SRPF Group No.10, Solapur to the establishment of Principal; P.T.C. Marol Andheri, Mumbai. Further by order dated 06.02.2016, the Applicant came to be transferred from the establishment of Commandant; S.R.P.F. Group No.10, Solapur to the establishment of Commandant; SRPF Group No.8, Mumbai and was allowed to continue on deputation in the establishment of Principal; P.T.C. Marol Andheri, Mumbai.

4. The learned Advocate for Applicant stated that in the above mentioned compelling circumstances, the Applicant made representations 08.07.2022 to the Additional Chief Secretary, Home

Department and DGP, Maharashtra State seeking 'Inter District Transfer' from the establishment of Commandant; SRPF Group No.8, Mumbai which is under jurisdiction of Additional DG, SRPF; Maharashtra State, Mumbai to the establishment of Commissioner of Police Greater Mumbai as per Home Department Circular dated 12.05.2021 read with Home Department Circular dated 29.11.2022. The Applicant was thereafter informed by Additional DG, SRPF, Maharashtra State Mumbai on 26.08.2022 that his request for 'Inter District Transfer' will be considered in due course as per his position in 'Seniority List' and availability of 'Vacant Posts' whenever such an exercise is undertaken by Additional DG SRPF; Maharashtra State, Mumbai. The Applicant again made representations on 19.09.2022 and 22.10.2022 to the Additional DG, SRPF; Maharashtra State, Mumbai seeking 'Inter District Transfer' as 'Special Case' in view of the serious illness of his daughter who is suffering from 'Blood Cancer' as she was required to regularly undergo 'Chemotherapy' and 'Radiotherapy' at the Tata Memorial Hospital, Mumbai. These representations of the Applicant then came to be forwarded by Principal; P.T.C. Marol Andheri, Mumbai to Commandant; SRPF Group 8, Mumbai on 06.12.2022.

5. The learned Advocate for the Applicant then stressed on the point that the Additional DG, SRPF Maharashtra State, Mumbai had issued order dated 12.01.2023 by which he has approved 'Inter District Transfers' of no less than 1263 Police Personnel who were working as Assistant Police Inspectors, Police Head Constables and Police Naiks in the establishments of Commandants: SRPF Group No.1 to 16 including several Assistant Sub Inspectors, Police Head Constables and Police Naik who were serving in the establishment of Commandant; SRPF Group 8, Mumbai. However, the order dated 12.01.2023 of Additional DG SRPF, Maharashtra State, Mumbai for reasons not known excluded the name of Applicant. The learned Advocate for Applicant also stated that he had completed more than 16 years of total service in establishments of

Commandant; SRPF, Group No.10, Solapur and Commandant; SRPF Group 8, Mumbai.

6. The learned Advocate argued that Additional DG SRPF Maharashtra State, Mumbai has qua the Applicant failed to observe guidelines in Home Department Circular dated 12.05.2021 read with Home Department Circular dated 29.11.2022 but by relying upon them relieved 1263 Police Personnel working as Assistant Police Inspectors, Police Head Constables and Police Naiks on 12.01.2023 as they must have also completed Minimum Service of 12 years to be eligible for 'Inter District Transfer'. The Applicant too deserved to be considered on the basis of his position in Seniority List but more so because case of the Applicant should have been sympathetically considered as 'Special Case' by Additional DG SRPF, Maharashtra State, Mumbai under provisions of Rule 69 of Maharashtra SRPF Rules: 1959. There was thus no compelling 'Administrative Reasons' for Additional DG, SPFF; Maharashtra State, Mumbai not to relieve the Applicant on 12.01.2023 and enable him to join in the establishment of Commissioner of Police, Greater Mumbai; more so as the restrictive 'Condition No.2' in Home Department Circular dated 12.05.2021 had been cancelled by Home Department Circular dated 29.11.2022.

7. The learned Advocate for the Applicant thereafter sought to highlight the unequal treatment that has been meted out to the Applicant by stating that there were many instances of even his juniors in the cadre of Police Head Constable who had been relieved on Inter District Transfer by order dated 12.01.2023 of Additional DG, SRPF, Maharashtra State, Mumbai and joined in the establishment of Commissioner of Police, Greater Mumbai. Thus, the Additional DG, SRPF, Maharashtra State, Mumbai has committed invidious discrimination against Applicant under Article 14 of the Constitution of India. That apart from contents of Home Department Circular dated 12.05.2021, it is clear that the Additional DG SRPF, Maharashtra State, Mumbai was required to prepare a combined

'Seniority List' at State Level of all Police Personnel who had submitted applications to request for 'Inter District Transfers' but such combined Seniority List had not been maintained by Additional DG SRPF; Maharashtra State, Mumbai. The order dated 12.01.2023 of Additional DG, SRPF, Maharashtra State Mumbai has caused grave injustice to the Applicant especially because as per communication dated 19.12.2022 from the office of Commissioner of Police, Greater Mumbai it was evident that 10% of 'Vacant Posts' as per 'Clause 5' of Home Department Circular dated 12.05.2021 was not considered by Additional DG SRPF; Maharashtra State, Mumbai. 'Vacant Posts' of Police Personnel in the establishment of Commissioner of Police, Greater Mumbai were thus available on 12.01.2023 for Additional DG, SRPF, Maharashtra State Mumbai to even approve the 'Inter District Transfer' of Applicant more so as it was required to be considered as 'Special Case'. The learned Advocate emphasized that as per communication dated 19.12.2022 from the office of Commissioner of Police, Greater Mumbai they had earmarked 707 posts for those Police Personnel who had sought 'Inter District Transfers'.

8. The learned P.O. relied on the Affidavit in Reply, dated 07.06.2023 filed on behalf of the Additional DG SRPF; Maharashtra State, Mumbai to state that the Applicant did not make any representation on 08.07.2022 to the office of the Additional DG SRPF; Maharashtra State, Mumbai but it was submitted to Additional Chief Secretary, Home Department and DGP Maharashtra State. The Applicant had made representation to the Additional DG SRPF; Maharashtra State, Mumbai on 20.07.2022 to request for 'Inter District Transfer' to the establishment of Commissioner of Police, Greater Mumbai. He was subsequently informed by the Additional DG SRPF; Maharashtra State, Mumbai on 26.08.2022, that his request for 'Inter District Transfer' cannot be considered as per Home Department Circular dated 12.05.2021 read with Home Department Circular dated 29.11.2022. The Applicant was informed by the Additional DG SRPF; Maharashtra State, Mumbai that his name was placed on the

'Waiting List'. Learned P.O. stated that though the period of Applicant's deputation in the establishment of Principal; P.T.C. Marol Andheri, Mumbai had expired, it was extended on compassionate grounds by Six Months. The Applicant's case all along has therefore been considered sympathetically by the Additional DG SRPF; Maharashtra State, Mumbai and he would be entitled for 'Inter District Transfer' in due course as per Home Department Circular dated 12.05.2021 read with Home Department Circular dated 29.11.2022 subject to his position in 'Seniority List' in the establishment of Commandant; SRPF Group No.8, Mumbai and availability of 'Vacant Posts' in the establishment of Commissioner of Police; Greater Mumbai.

9. The learned P.O. thereafter proceeded to contend on aspects of the Seniority List. She said that orders dated 31.01.2023 and dated 09.02.2023 were issued individually by Commandant SRPF Group No.10 Solapur and Commandant, Group No.14 S.R.P.F. Aurangabad and do not relate at all to the establishment of Commandant, SRPF Group No.8, Mumbai. The seniority of the Applicant was required to be considered only with respect to that of other Police Head Constables in the establishment of Commandant, S.R.P.F., Group No.8, Mumbai. She said it was admitted fact that the office of Commissioner of Police, Greater Mumbai had conveyed to the Additional DG, S.R.P.F., Maharashtra State, Mumbai on 19.12.2022 that 707 posts had been earmarked for those Police Personnel who had sought 'Inter District Transfer'.

10. The learned P.O. concluded her arguments by stating that Home Department Circular dated 12.05.2021 with Home Department Circular dated 29.11.2022 do not mention any specific criteria which are to be adopted for consideration of 'Special Cases'. Hence the Applicant being junior in Seniority List of Police Head Constables in the establishment of Commandant; S.R.P.F. Group No.8, Mumbai he was not eligible as on

12.01.2023 for 'Inter District Transfer' to the establishment of Commissioner of Police, Greater Mumbai.

11. The arguments of learned Advocate for Applicant and that of learned P.O. for Respondents were heard at length. The fact remains that the Applicant's daughter was diagnosed as suffering from "Blood Cancer" from age of about 2 years. She has been receiving regular treatment of both 'Chemotherapy' and 'Radiotherapy' at the Tata Memorial Hospital, Mumbai as is evident from the certificate issued as "To Whom It May Concern" by Senior Registrar; Department of 'Pediatric Oncology' of Tata Memorial Hospital, Mumbai on 24.02.2022.

12. The Additional DG SRPF; Maharashtra State, Mumbai all along has given sympathetic consideration to the Applicant on account of serious Medical Condition of his daughter who is suffering from 'Blood Cancer' from age of about 2 years and appreciably has provided the Applicant with additional facilities like 'Police Quarter' and even permitted him to stay on for Extended Periods of deputation in the establishment of Principal; P.T.C. Marol Andheri, Mumbai when he was required to be on active duty as Police Head Constable in the establishments of Commandant; S.R.P.F. Group No.10, Solapur and Commandant; SRPF Group No.8, Mumbai.

13. The Applicant's request is for 'Inter District Transfer' from the establishment of Commandant; SRPF Group No.8 Mumbai to the establishment of Commissioner of Police; Greater Mumbai is no different from that of many other Police Head Constables in the establishment of Commandant; SRPF Group No.8, Mumbai; but what sets the Applicant's case completely apart from the rest is the serious Medical Condition of his daughter who was diagnosed with 'Blood Cancer' from the age of about 2 years for which she is required to be administered 'Chemotherapy' and 'Radiotherapy' regularly at Tata Memorial Hospital, Mumbai. Further keeping aside the issue of Applicant's position in the

'Seniority List' of Police Head Constables in the establishment of Commandant SRPF Group No.8, Mumbai even if he had been relieved on 12.01.2023 by Additional DG SRPF; Maharashtra State, Mumbai to enable him to join on Inter District Transfer in the establishment of Commissioner of Police, Greater Mumbai; then too it would not have had any significant impact on overall vacancy position in the cadre of Police Head Constables in the establishment of Commandant; SRPF Group No.8, Mumbai. Even presuming it did this vacant post of Applicant could have been forthwith filled up by promotion of any deserving Police Naik. In any case, the Additional DG SRPF; Maharashtra State, Mumbai by order dated 12.01.2013 had relieved on 'Inter District Transfers' no less than 1242 Police Personnel including several Assistant Police Inspector, Police Head Constables and Police Naiks serving in the establishment of Commandant, SRPF, Group No.8, Mumbai.

14. The Applicant's case no doubt has been considered on compassionate ground by the Additional DG SRPF; Maharashtra State, Mumbai and Commandant; SRPF Group No.8, Mumbai but it appears that the impediment to consider request of Applicant's for 'Inter District Transfer' to the establishment of Commissioner of Police, Greater Mumbai in his position in 'Seniority List' in the cadre of Police Head Constables in the establishment of Commandant, SRPF Group No.8, Mumbai and because specific criteria has not been mentioned in Home Department, Circular of 12.05.2021 read with Home Department Circular of 29.11.2022 to consider on priority such 'Special Cases' as that of the Applicant.

15. The Additional DG, SRPF, Maharashtra State, Mumbai has affirmed that the Applicant's case will be considered for 'Inter District Transfer' but he will be relieved from the establishment of Commandant; SRPF Group No.8, Mumbai to join in the establishment of Commissioner of Police, Greater Mumbai in due course based on his position in 'Seniority List' and availability of 'Vacant Posts'.



16. The requests for Inter District Transfer of Assistant Police Inspectors, Police Head Constables and Police Naiks from the establishment of Commandant; SRPF Group No.8, Mumbai who have applied for Inter District Transfer to the establishment of Commissioner of Police, Greater Mumbai are required to be decided only in accordance with provisions of law and rules viz : (i) Section 7 of the Maharashtra SRPF Act: 1951 and (ii) Rule 68 and Rule 69 of the Maharashtra SRPF Rules: 1959. The provisions of Rule 69 of the Maharashtra SRPF Rules: 1959 states that *“Notwithstanding anything contained in Rule 68 above, the commandant may on compassionate ground allow such resignation or transfer”*. The provisions of Rule 69 of Maharashtra SRPF Rules:1959 thus can be brought into implementation only by the ‘Commandant’ so designated under ‘Section 2’ read with ‘Section 5’ of the Maharashtra SRPF Act: 1951. Therefore, provisions of Rule 69 of the Maharashtra SRPF Rules: 1959 which empowers the ‘Commandant’ with vast discretion to consider ‘Special Cases’ of Inter District Transfer based on ‘Compassionate Ground’ must be exercised by the ‘Commandant’. While exercising these discretionary powers under Rule 69 of Maharashtra SRPF Rules:1959, an appropriate test for the ‘Commandant’ would be come to an unequivocal conclusion based on all facts and circumstances of such ‘Special Cases’ whether the compelling reasons cited by the Applicant appeal to his conscience. Notwithstanding the guidelines in Home Department Circular dated 12.05.2021 read with Home Department Circular dated 29.11.2022 by which ‘Inter District Transfers’ are to be considered, they certainly are not to be implemented in such a way so as to supplant the provisions of law and rules viz (i) Maharashtra SRPF Act” 1951 and (ii) Maharashtra SRPF Rules:1959. The “Commandant” must uphold the provisions of law and rules and cannot be tied down by the guidelines in Home Department Circular dated 12.05.2021 read with Home Department Circular 29.11.2022. The Maharashtra SRPF Rules: 1959 has made specific provision of Rule 69 only to ensure that immediate relief can be provided by the

'Commandant' as leader of his men in uniform whenever such deserving 'Special Cases' are submitted for his consideration like that of Applicant whose daughter has been suffering from 'Blood Cancer' from the age of about 2 years. The provisions of law and rules viz (i) Maharashtra SRPF Act 1951 and (ii) Maharashtra SRPF Rules: 1959 for this very reason do not vest such discretionary power of 'Inter District Transfers' with the Additional DG SRPF; Maharashtra State, Mumbai. Hence, the 'Commandant, SRPF; Group No. 8, Mumbai is directed to forthwith exercise the discretionary powers vested in him under Rule 69 of Maharashtra SRPF Rule: 1959 to decide as 'Special Case', the Applicant's request for 'Inter District Transfer' from the establishment of Commandant; SRPF Group No.8 Mumbai to the establishment of Commissioner of Police; Greater Mumbai.

**ORDER**

- (1) Original Application is Allowed.
- (2) The Commandant; SRPF Group-8, Mumbai to pass reasoned order within Two Weeks for 'Inter District Transfer' of Applicant from the establishment of Commandant; SRPF Group No.8 Mumbai to the establishment of Commissioner of Police; Greater Mumbai.
- (3) No order as to Costs.

**(Debashish Chakrabarty)**  
**Member (A)**

Place: Mumbai  
Date: 13.12.2023.  
Dictation taken by: VSM  
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