

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NO.531 OF 2016

DISTRICT : PUNE


Shri Sunil P. Pandharkar.)
Age : 46 Yrs, Working as Police Inspector,)
Residing at Chaitraban Society, S.No.79/2,))
'Sahyadri' New Sangavi, Pune 411 027.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through the Addl. Chief Secretary,)
Home Department,)
Mantralaya, Mumbai - 400 032.)
2. The Commissioner of Police.)
Pune City, Police Commissioner)
Building, Near Sadhu Vaswani)
Mission, 1-Cannaught Road,)
Pune 411 001.)
3. Shri Balkrushan G. Ambure.)
Kothrud Traffic Branch, Paud Phata,))
Near Flyover, Kothrud, Pune 38.)...**Respondents**

Smt. Punam Mahajan, Advocate for Applicant.

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



P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 22.09.2016

JUDGMENT

1. This Original Application is moved by a Police Inspector posted in Kothrud Traffic Branch disputing the impugned order in so far as he is concerned whereby he was transferred to what has been described as Court Company. The impugned order is dated 31.5.2016. It is an instance of mid-tenure transfer and the initial submission of the learned P.O. that he had completed his tenure is factually found to be inaccurate.

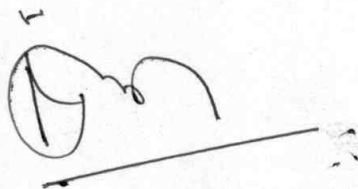
2. I have perused the record and proceedings and heard Smt. Punam Mahajan, the learned Advocate for the Applicant and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.

3. Even as this OA relates to a transfer within the Commissionerate of Pune, but by and large, the issues involved herein have already been decided in 5 different orders made by this Tribunal. This aspect of the matter was dealt with by me in a Judgment rendered in a short while ago in the matter of OA 469/2016 (N.R. Ranaware



Vs. State of Maharashtra) and there, I made the following observations.

“3. Be it noted right at the outset that this particular OA is in fact fully covered by as many as 5 Judgments of this Tribunal rendered of late. They are **OA 466/2016 and 467/2016 (Arun R. Pawar Vs. State of Maharashtra and 2 ors., dated 12.7.2016)** rendered by me whereagainst an application for review being Review Application No.18/2016 was moved and dismissed on 10.8.2016 by me. Another final order was in **OA 505/2016 (Shri Ravindar B. Badgajar Vs. State of Maharashtra and 3 others, dated 9.8.2016)** by the Hon’ble Vice-Chairman. Then, there was a fasciculus of OAs, the leading one being **OA 446/2016 (Shri S.B. Deokar Vs. State of Maharashtra & others and other OAs) decided by me on 26.08.2016.** Another Judgment was rendered by the Hon’ble Vice-Chairman in a fasciculus of OAs, the leading one being **OA 471/2016 (Shri Appasaheb B. Lengare Vs. State of Maharashtra and 3 others & other OAs, dated 26.8.2016).** The Applicants in all those OAs



were similarly placed although a majority of them were PIs, but a few of them were like the present Applicant APIs as well. In all those matters just as in the present one, it was a case of mid-tenure transfer and the provisions of Section 22-N of Maharashtra Police Act and its various Sub-sections and Sub-clauses arose for consideration. As I mentioned just now, all those OAs in so far as the facts and the legal issues are concerned were exactly like the present one.

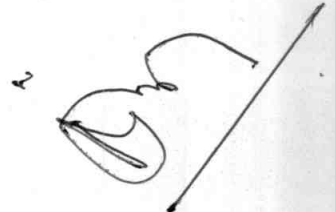
4. It must be said to the credit of Mrs. K.S. Gaikwad, the learned P.O. that even then, she tried her best to salvage the case of the Respondents by inviting reference to the fact that there were adverse comments of S.P. against the Applicant which became the cause of his transfer and she also relied upon the Judgment of the Hon'ble Supreme Court in **Appeal (Civil) 1010-2011 of 2004 (Union of India and others Vs. Shri Janardhan Debanath and Anr, dated 13.2.2004 (SC) (Coram : His Lordship the Hon'ble Shri Justice Doraiswamy Raju & His Lordship the Hon'ble Shri Justice Arijit Pasayat)**. Now, all these points that are raised

here again by the learned P.O. were raised in those other OAs including **Arun Pawar's** case and they were appropriately dealt with. The Judgment of the Hon'ble Supreme Court in **Janardhan Debanath's** case was considered in that matter in Para 26 as well as in other Paras. It was pointed out as to how different Rules governed that matter and further as to how the Judgment of **Prakash Singh and others Vs. Union of India and others (2006) 8 SCC Page 1 and Somesh Tiwari Vs. Union of India, 2009 (3) SLR 506 (SC) (Para 20)** were the rulings that govern **Arun Pawar's** matter, and therefore, this matter as well. In fact, the principles laid down by the Hon'ble Supreme Court in **Janardhan Debanath** (supra) also, when applied to the present facts would lead to the conclusion that was drawn in **Arun Pawar** (supra) and in fact, in this OA as well."

4. It is, therefore, very clear that absolutely no distinguishing feature are there in this OA from those OAs that came to be decided as detailed hereinabove.

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5. The issue that the appropriate authority empowered to effect mid-tenure transfer being the State Government was elaborately discussed in the OA of **Arun Pawar** (supra). The conclusions based thereon will be fully applicable hereto. In addition to the case law above, the learned P.O. Chougule relied upon **OA 455/2015 (Shri Vilas S. Suryawanshi Vs. Commissioner of Police, Thane and one another, dated 26.11.2015)**, the order rendered by the Hon'ble Vice-Chairman. There the OA was dismissed. However, there were basic distinguishing feature, the most significant being that in that matter, the Applicant had to face complaints while here the Respondents themselves deeply commend the Applicant as a good Officer. That being the state of affairs, I am very clearly of the view that this OA will have to be decided on the principles emanating from the above discussed final orders in the OAs. By the order dated 16.6.2016, the Hon'ble Vice-Chairman was pleased to grant stay to the transfer of the Applicant. Now, that interim order shall get merged into the final order. The order herein impugned in so far as it transfers the Applicant from Kothrud Traffic Branch to Court Company stands hereby quashed and set aside and the Respondents are directed to let him continue to be there till such time as he becomes due for transfer legally and as per Rules. The interim order gets merged



herewith. The Original Application is allowed in these terms with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
22.09.2016

Mumbai

Date : 22.09.2016

Dictation taken by :

S.K. Wamanse.

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