

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**ORIGINAL APPLICATION NO.551 OF 2018**

**(Subject : Transfer)**

DISTRICT: SANGLI

Shri Rajendra V. Manvar  
Working as Police Naik  
R/o. New Police Line, Vishrambaug,  
Sangli

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**.. Applicant**

**Versus**

The Superintendent of Police,  
Sangli, office at Sangli

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)

**.. Respondent**

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

Smt. Archana B.K., the learned Presenting Officer for the Respondent.

CORAM : SHRI A.P. KURHEKAR, MEMEBR(J)

RESERVED ON : 20.12.2018.

PRONOUNCED ON : 21.12.2018.

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

1. Applicant has challenged the impugned order dated 15.12.2017 passed by the Respondent whereby he has been shown deployed at the office of Superintendent of Police, Sangli contending that it amount to transfer in violation of Maharashtra Police Act, 1951.

2. Shortly stated facts giving rise to this Original Application are as follows :-

At the time of impugned order Applicant was working as Police Constable at Miraj Rural Police Station. By impugned order dated 15.12.2017 he has been shown temporarily deployed at the office of Superintendent of Police, Sangli as Guard. The Applicant has challenged the said order contending that it amounts to transfer and it being in violation of mandatory provisions of Section 22N of Maharashtra Police Act, 1951 is not sustainable in law and facts.

3. Applicant has not completed normal tenure of five years at Miraj Rural Police Station. No exceptional case is made out nor there is anything suggesting that it was in public interest or on account of administrative exigencies as provided in Section 22N of Maharashtra Police Act, 1951. By the impugned order dated 15.12.2017, fourteen Police Personnels were deputed at different places and out of it eight Constables have been shifted back to their original postings. However, the applicant is kept in abeyance without any time limit of deployment. Applicant contends that the impugned order is arbitrary and not sustainable in law. He, therefore, prayed to set aside the impugned order and to repost him at his original place.

4. Respondent resisted the application by filing affidavit-in-reply, inter alia, contending that the impugned order dated 15.12.2017 is not transfer but it was deployment of Police Personnels at various places to meet the administrative exigencies. As it is temporary

deployment there was no need to place the matter before the Police Establishment Board. On this premises, Respondent contend that he being Administrative Head of the District can make such temporary arrangement which does not call for interference by the Tribunal.

5. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicant and Smt. Archana B.K., the learned Presenting Officer for the Respondent.

6. Learned Advocate Shri A.V. Bandiwadekar for the Applicant submitted that the impugned order dated 15.12.2017 being for indefinite period cannot be termed as mere deployment for administrative exigencies. According to him, it is transfer in the eye of law and there being no observance of the provisions of Maharashtra Police Act, 1951 the same is unsustainable in law. In this behalf, he sought to place reliance on the judgment passed by this Tribunal in similar situation.

7. Learned P.O. Smt. Archana B.K, for the Respondent tried to support the impugned order contending that it is mere deployment of Police Personnels for some period and therefore it cannot be termed as a transfer.

8. Now, the first question is whether the impugned order can be termed as mere temporary deployment or it is transfer within the provisions of Maharashtra Police Act, 1951. Admittedly, the impugned order has been passed by the Respondent without

recommendation of Police Establishment Board. It is admittedly mid-term order. There is no dispute that out of 14 employees who were deployed by the impugned order, 8 employees were shifted back to their original places. It is significant to note that the applicant along with other Police Personnels was deputed at different places without mentioning specific period of their deployment. One can understand if due to some administrative exigencies the police personnels have been deputed for some specific period. However, in present case the applicant has been deployed at the office of Police Superintendent as Guard without any time limit by shifting him from the office of Miraj Rural Police Station. If there were any administrative exigencies then there could be deputation so along as exigencies exist. Whereas in present case, on the spacious ground of administrative exigencies, the Police Personnels were deployed at different places for indefinite period. Now the period of more than one year is over. This being factual position order dated 15.12.2017 cannot be said mere order of deputation or deployment for administrative exigencies. In fact, it seems to have been passed to circumvent the provisions of Maharashtra Police Act, 1951 which requires recommendation of Police Establishment Board for such mid-term transfer. This Tribunal has occasion to consider similar situation in **O.A.No.954 of 2012 Shri Hirasingsh Bhisuji Jadhav V/s. The Commissioner of Police, decided on 03.01.2013** and **O.A.No.1091 of 2014, Shri Lahanu Bhaurao Balsane V/s. The State of Maharashtra & Anr., decided**

**on 13.03.2015.** Accordingly both Original Applications were allowed and applicants were reposted at their erstwhile posting.

9. In present case also, I see no reasons to deviate from the observations and principle discussed in these O.A. In view of the aforesaid discussion, it suffice to say that the impugned order which is termed and styled as deployment order is nothing but transfer order. Once this aspect is set of rest hardly anything needs to be discussed as admittedly there is no compliance of mandatory provisions of Maharashtra Police Act, 1951.

10. Now, let us have a look on the relevant provisions of Maharashtra Police Act, 1951. As per Section 22N(1)(b) normal tenure of a Police Constable shall be of five years at one place of posting. Admittedly, the applicant has not completed his five years at Miraj Rural Police Station. Whereas as per Section 2(6)(a) general transfer is defined as posting of Police Personnel in the Police Force from the office of or Department office or Department in the month of April and May of every year after completion of normal tenure. "Mid-term transfer" means transfer of Police Personnel in the Police force other than general transfer. As such on joint reading of the provisions of Section 2(6)(A), 2(6)(B) and 29(N)(1)(b) there is escape from conclusion that impugned order is mid- term transfer order.

11. In so far as general transfers are concerned as per Section 22(N) Police Establishment Board at District Level is the competent

authority for the transfer of applicant. Proviso to Section 22(N) empowers State Government to transfer any Police Personnel prior to completion of normal tenure on the ground of disciplinary provisions, allegation and corruption etc. as enumerated in Clause (A) and (E). Whereas as per Section 22(N)(2) in exceptional case in public interest and on account of administrative exigencies the competent authority shall make mid-term transfer of Police Personnel or the Police Force. As such the powers are vested with the competent authority i.e. Police Establishment Board at District Level to transfer the applicant in public interest or on account of administrative exigencies, where mid-term transfer is warranted. However, in present case there is no such compliance of recommendation of Police Establishment Board. The Respondent at his own passed the impugned order styling it as deployment which has effect of circumventing mandatory provisions of Maharashtra Police Act, 1951, 1951 as discussed above.

12. This being position necessary corollary is that Respondent was not competent or authorized to transfer the applicant from Miraj Rural Police Station to the office of Superintendent of Police, Sangli. At this juncture, it will be apposite to note that Section 22 has been amended w.e.f. 06.04.2015. In view of direction given by Hon'ble Supreme Court in case of **Prakash Singh and Ors. Vs. Union of India and Ors. [(2006) 8 SCC 1]** case. The amendments were incorporated to ensure minimum the tenure of Police Personnels so that they could function without fear or favour.

13. In such circumstances, if the impugned order is allowed to sustain the amendments made in Maharashtra Police Act, 1951 would render otiose. For the aforesaid reasons I have no hesitation to sum up, that the impugned order is not sustainable in law and facts and the O.A. deserves to be allowed.

**O R D E R**

- (i) Original Application is allowed.
- (ii) Impugned order dated 15.12.2017 qua applicant is quashed and set aside. Applicant be reposted at his original place of posting i.e. Miraj Rural Police Station within one month from today.
- (iii) No order as to costs.

Sd/-  
**(A.P. KURHEKAR)**  
**MEMBER(J)**

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