

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**ORIGINAL APPLICATION NO.636 OF 2020 with O.A.No.596 of  
2021 with O.A.No.597 of 2021 with O.A.No.598 of 2021**

**ORIGINAL APPLICATION NO.636 OF 2020**

Shri Shahid Sayyad Pathan )  
Age 42 years, Working as Assistant )  
Police Inspector, R/at Plot No.104, )  
Galaxy Paradise, Kohinoor Park Society, )  
Marunji, Pune 411 057. ).... **Applicant**

**Versus**

- 1) The State of Maharashtra, )  
Through Additional Chief Secretary, )  
Home Department, Mantralaya, )  
Mumbai 400 032. )
- 2) Director General of Police,M.S. )  
Mumbai, Maharashtra Police H.Q. )  
Shahid Bhagat Singh Marg, Colaba )  
Mumbai 400 001. )
- 3) The Commissioner of Police, Pimpri )  
Chinchwad Police Commissionerate )  
Premlok Park, Chinchwad, Pimpri- )  
Chinchwad, Pune 411 033. ) **..Respondents**

**ORIGINAL APPLICATION NO.596 OF 2021**

Shri Sunil Jaywant Pinjan )  
Age 53 years, Working as Sr.Police )  
Inspector, Shirgaon Police Chowki, Pimpri )  
Chinchwad Commissionerate. )  
R/at. Plot No.36, Krishnanagar, Section 20 )  
Chikhali Pradhikaran, Chinchwad, )  
Pune 411019. ).... **Applicant**

**Versus**

The State of Maharashtra & 2 others ) **....Respondents**

**ORIGINAL APPLICATION NO.597 OF 2021**

Shri Amarnath R. Waghmode )  
 Age 50 years, Working as Sr.Police )  
 Inspector, Crime Branch, Unit-1, Pimpri- )  
 Chinchwad, Pune. )  
 R/at. Om Residency, Sathe Path, )  
 Bhandarkar Road, Deccan, Pune 411013. ).... **Applicant**

**Versus**

The State of Maharashtra & 2 others ) ....**Respondents**

**ORIGINAL APPLICATION NO.598 OF 2021**

Shri Rangnath Bapu Unde )  
 Age 54 years, Working as Sr.Police )  
 Inspector, Sangavi Police Station, Pimpri )  
 Chinchwad, Pune. )  
 R/at. Sadguru Niwas, Shivdatta Nagar, )  
 Pimpale Gurav, Pune. ).... **Applicant**

**Versus**

The State of Maharashtra & 2 others ) ....**Respondents**

Smt. Punam Mahajan, learned Advocate for the Applicant.

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

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

DATE : 29.10.2021

**JUDGMENT**

All these Original Applications are filed challenging transfer orders on common ground, and therefore, being decided by common order.

2. In O.A.No.636/2020, the Applicant has challenged the transfer order dated 29.10.2020 whereby he is transferred on the post of Assistant Police Inspector, Dehu Road Police Station, Pimpri-Chinchwad Commissionerate to Aurangabad.

3. In O.A. No.596/2020, the Applicant has transferred by order dated 14.08.2021 from the post of Sr. PI, Shirgaon Police Station Pimpri –Chinchwad Police Commissionerate to CID, Pune.

4. In O.A. No.597/2020, the Applicant is transferred by order dated 14.08.2021 from the post of Sr. PI Crime Branch Unit-1 Pimpri-Chinchwad Police Commissionerate to Police Training School, Nanvij, Daund.

5. Lastly, in O.A.No.598/2021, the Applicant is transferred by order dated 14.08.2021 from the post of Sr. Police Inspector, Sangavi Police Station Pimpri-Chinchwad Police Commissionerate to Police Training School, Nanvij, Daund.

6. The Applicants have challenged the transfer orders *inter-alia* contending that they have been transferred mid-term and mid-tenure without completion of their normal tenure and without compliance of Section 22 N (2) of Maharashtra Police Act. While transferring them, the Police Commissionerate Pimpri-Chinchwad has considered Applicants earlier tenure in Pune Commissionerate and having found that their total period of tenure in Pune Police Commissionerate and Pimpri-Chinchwad Police Commissionerate is more than six years which is normal tenure for the post of PI in Police Commissionerate, they were required to be transferred.

7. Heard Smt. Punam Mahajan, learned Counsel for the Applicants and Smt. Archana B.K., learned Presenting Officer for the Respondents.

8. In view of the pleadings and submissions, the issue posed for consideration is whether the tenure of the Applicants spent in Pune Police Commissionerate can be clubbed with their tenure in Pimpri-Chichwad Police Commissionerate so as to transfer them. There is no

denying that earlier the Applicants were in Pune Police Commissionerate and in view of formation of new Police Commissionerate namely Pimpri-Chinchwad Police Commissionerate in the year 2018, they were transferred to Pimpri-Chinchwad Police Commissionerate. If their tenure in Pune Police Commissionerate and Pimpri –Chinchwad Police Commissionerate is clubbed together, it exceeds more than six years. As such, the Commissioner of Police Pimpri-Chinchwad construed that Applicants have completed normal tenure of six years, and therefore, transferred them by orders which are impugned in the present Original Applications.

9. Indeed, this issue of clubbing of tenure in two different Police Commissionerate is already adjudicated by this Tribunal in **O.A.No.635/2020 (Vishwajit Vasant Khule V/s. State of Maharashtra & Ors.)**, decided on 01.10.2021 as well as in **O.A.98/2021 (Rajendra Chindhu Sonawane V/s State of Maharashtra & Ors)**, decided on 11.10.2021. The Tribunal after considering the provisions of Maharashtra Police Act turned down the defence that clubbing of tenure is permissible. The Tribunal has categorically held that once the Applicant is transferred from Pune Police Commissionerate to Pimpri-Chinchwad Police Commissionerate in view of formation of new police Commissionerate, they are entitled to six years tenure afresh in newly created police Commissionerate in terms of Section 22N(1)(d) of Maharashtra Police Act which *inter alia* stipulates that six years tenure of police officers of the rank of PSI, API & PI, a normal tenure shall be at six years at Police Commissionerate other than Mumbai and eight years at Mumbai Commissionerate . Suffice to say, while deciding earlier O.A. the Tribunal has rejected the theory of clubbing of tenure with observations that such interpretation would defeat the very purpose and object of the provisions contained in Maharashtra Police Act. In para No.15 of the order in O.A.98/2021, the Tribunal held as under:-

*“ 15. Thus, it is on the basis of Circular dated 16.03.2020, the Respondent No.3 clubbed the tenure of Applicant spent in Pune Commissionerate with his tenure in Pune-Chinchwad Police Commissionerate which is obviously contrary to spirit and object of Maharashtra Police Act. There could be no such clubbing of tenures unless it is specifically provided under the provisions of Maharashtra Police Act when Act specifically provides for six years tenure in Police Commissionerate other than Mumbai Police Commissionerate where it is eight years tenure. Once the Pimpri-Chinchwad Police Commissionerate is created as a separate Police Commissionerate and came into existence in 2018, the tenure of police personnel appointed on the establishment of Pimpri-Chinchwad Police Commissionerate are entitled to prescribed tenure as provided in law. The Applicant being Police Inspector, in law, he is entitled to six years tenure in Pimpri-Chinchwad Police Commissionerate. Suffice to say, any such Circular which is in conflict with law cannot be allowed to prevail otherwise the very purpose and object of the provisions contained in Maharashtra Police Act would be defeated. The Circular cannot override or supplant the statutory provisions, and therefore, clubbing of tenures to construe the impugned transfer as a general transfer order is totally unsustainable in law.”*

10. Consequently the O.A. was allowed and transfer order were quashed and set aside.

11. When these O.As are taken up for hearing at the stage of admission on previous date, learned P.O. sought adjournment on the ground that Respondents are contemplating challenging the orders passed by the Tribunal in O.A.98/2021 and 635/2020. Therefore, the matters were adjourned for today.

12. However, today learned P.O. fairly stated that Respondents have decided not to challenge the orders passed by the Tribunal in these Original Applications. As such, the orders passed by this Tribunal in O.A.98/2021 and 635/2020 have attained finality and implemented.

13. The Applicants being similarly situated persons are, therefore, entitled to the benefits of the decisions rendered by the Tribunal in earlier litigation. In service jurisprudence, it is well settled principle of

law that when particular set of employees is given relief by the court, all other identically situated persons needs to be treated alike by extending that benefits to them and not doing so would amount to discrimination and violative of Article 14 of the Constitution of India.

14. As such, the issue of non permissibility of clubbing of tenure from two different Police Commissionerate is already adjudicated and has attained finality. These Original Applications are therefore, required to be disposed of on similar line.

15. The totality of the aforesaid discussion leads me to sum up that impugned transfer orders are not sustainable in law and liable to be quashed. Hence the following order:-

**ORDER**

- (A) Impugned transfer order in O.A.No.636/2020 dated 29.10.2020 qua the Applicant is quashed and set aside.
- (B) Impugned transfer order in O.A.No.596/2021 dated 14.08.2021 qua the Applicant is quashed and set aside.
- (C) Impugned transfer order in O.A.597/2021 dated 14.08.2021 qua the Applicant is quashed and set aside
- (D) Impugned transfer order in O.A.No.598/2021 dated 14.08.2021 qua the Applicant is quashed and set aside.
- (E) The Respondent No.3 is directed to repost the Applicants on the post they were transferred from within two weeks from today.
- (F) No order as to costs.

Sd/-

**(A.P. KURHEKAR)**  
**Member-J**