

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.664 of 2020**

Shri Chandrakant Jagannath Jadhav )  
Aged about 52 years, )  
Senior Police Inspector, )  
Shil-daighar Police Station, )  
Thane District, Thane )  
And have residential address, )  
Nandanvan Homes, A-1, )  
1402, Parsik Nagar, Kalwa, )  
District Thane. ) **...APPLICANT**

**VERSUS**

1. Commissioner of Police, )  
Thane City, District Thane. )  
2. Joint Commissioner of Police, )  
Thane City, District Thane. )  
3. Shrimati Sulabha Mahadev Patil, )  
Police Inspector, Special Branch, )  
Thane City, District Thane. ) **..RESPONDENTS**

Shri M.D. Lonkar, learned Advocate for the Applicant.

Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents No.1  
and 2.

Ms. Savita Suryawanshi, learned Advocate for the Respondent No.3.

**CORAM** : **JUSTICE MRS. MRIDULA BHATKAR, CHAIRPERSON**  
**RESERVED ON** : **24.11.2020**  
**PRONOUNCED** : **24.12.2020**  
**ON**

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

1. Heard Shri M.D. Lonkar, learned Advocate for the Applicant, Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents No.1 and 2 and Ms. Savita Suryawanshi, learned Advocate for the Respondent No.3.
2. The Applicant, Senior Police Inspector challenges the order dated 05.11.2020 transferring him from Shil-daighar Police Station to Special Branch, Thane and transferring Respondent No.3 vis-à-vis. The Applicant, by order dated 12.08.2019, came to be transferred and posted as Senior Police Inspector (Sr. P.I.), Shil-daighar Police Station and Respondent No.3 by order dated 20.02.2020 was transferred and posted at Special Branch. The Respondent No.2 has issued the order of the transfer of the applicant on 05.11.2020 from Shil-daighar Police Station i.e. before completing the normal tenure of two years and thus it is mid-term and mid-tenure transfer.
3. The Respondents No.1 and 2 contested the O.A. by filing the affidavit-in-reply dated 19.11.2020, through Smt. Sonali Prashant Doule, Assistant Commissioner of Police, Thane and Respondent No.3 filed her affidavit-in-reply dated 19.11.2020 and appeared through the learned Counsel Ms. Suryawanshi.

4. The learned Advocate Shri M.D. Lonkar has submitted that it is mid-term transfer in breach of Section 22N of the Maharashtra Police (Amendment) Act, 2015. Such transfer is arbitrary and malafide when the Applicant was neither due for transfer nor has asked for the transfer. There were no complaints against the Applicant and on blanket reasons of public interest or the administrative exigency he is transferred. The invocation of power under Section 22N of the Maharashtra Police (Amendment) Act, 2015 by Respondents No.1 and 2 is illegal and therefore the said power is to be quashed and set aside. He has further submitted that the order is issued in colorable exercise of power in as much as to show undue accommodation in favour of Respondent No.3. He has submitted that the Respondents have failed to make out the case that the transfer order was issued in exceptional circumstances or for administrative exigency. The learned Counsel Shri Lonkar in support of his contentions relied on series of judgments passed by the Hon'ble Supreme Court and the High Courts and by the Maharashtra Administrative Tribunal and they are considered later.

5. The learned P.O. Smt. K.S. Gaikwad for the Respondents No.1 & 2 and the learned Counsel Ms. Suryawanshi for the Respondent No.3 both have vehemently argued on validity and legality of the order. The learned P.O. Smt. Gaikwad has submitted that the applicant is transferred within the headquarters i.e. Thane Commissionerate. The Commissioner has power to transfer these officers within the Commissionerate and

therefore in fact such kind of posting is not to be treated as transfer but it is assigned or given to the officers from one Police Station to the other Police Station within the Thane Commissionerate and therefore Respondent No.1, Commissioner of Police and Respondent No.2, Joint Commissioner are the competent transferring authority for the Applicant. Therefore, Applicant who is working in Shil-daighar Police Station, within the jurisdiction of Thane Police Commissioner, is transferred to Special Branch, Thane and Respondent No.3 who was posted at Special Branch, Thane is shifted as Sr. P.I. at Shil-daighar Police Station. She further submitted that due to COVID-19 pandemic, the General Administration Department (G.A.D.) has issued circular dated 15.10.2020 that for the financial year 2020-2021, the Police Officer and Police Personnel can be transferred till extended period of 30.10.2020. Pursuant to the said Circular the meeting of the Police Establishment Board (P.E.B.), Thane Commissionerate was held on 05.11.2020 and P.E.B. took the decision of the transfers on request and giving posting to the officers who are transferred, then giving posting to the Officers who are promoted. She relied on the minutes of the meeting of P.E.B. dated 05.11.2020. The learned P.O. has submitted that there is no breach of Section 22N of the Maharashtra Police (Amendment) Act, 2015. Relying on the affidavit-in-reply of Shri Dhole, learned P.O. has submitted that the Applicant was transferred on 04.05.2017 in the establishment of Commissioner of Police, Thane. Thereafter he was transferred and posted at Navpada Police Station, where he was working for two years as Sr. P.I. and

thereafter, on 12.08.2019 he was transferred to Shil-daighar Police Station. Thus, he had completed two years at earlier posting and one year at Shil-daighar Police Station. Therefore he has served 3 years and has completed the normal tenure within Thane Commissionerate and therefore he is now transferred to Special Branch. The learned P.O. further submitted that Respondent No.3 is a lady Senior P.I. and with a view to encourage the female police officers for working in the field and in the rank of Sr. P.I. authority found it necessary in the public interest to give opportunity to her by giving post at Shil-daighar Police Station. These are internal transfers of the officers and therefore they are not to be interfered, and the order is not malafide.

6. The learned Counsel Ms. Suryawanshi while adopting the submissions of the learned P.O. has argued that the Applicant and Respondent No.3 were transferred not on their request but it is only on the ground of administrative exigency. Respondent No.3 in her affidavit-in-reply has stated that on 05.11.2020 as soon as she received the order she took charge on 06.11.2020 immediately and she has been working their continuously. She claimed that her performance throughout was outstanding and it was appreciated by higher authorities and others. The Applicant has not made out the case of malafide or vengeance. The balance of convenience lies in the favour of the Applicant and the Respondent No.3 and therefore the application is to be dismissed.

7. Perused the pleadings, affidavit-in-reply and the documents produced by both the parties. Both the officers i.e. the Applicant and the Respondents in fact were not due for transfer. The submissions of learned P.O. that the applicant had put in three years and six months within Thane Commissionerate and therefore his transfer cannot be considered as mid-term transfer are not correct. The other submissions of learned P.O. that these are the internal transfers in the same Commissionerate and are not in true sense transfers and has not caused any prejudice to the applicant are also not convincing and not tenable in law. The law is settled on the point what transfer is ? In view of the ratio laid down by the Hon'ble Supreme Court in the case of **Prakash Singh & Ors Versus Union Of India And Ors (2006) 8 SCC 1**, the Maharashtra Police (Amendment) Act, 2015 is amended. The newly added Section 2(6A) defines 'General Transfers' as follows :-

*(6A) "General Transfer" means posting of a Police Personnel in the Police Force from one post, office or Department to another post, office or Department in the month of April and May of every year, [after completion of normal tenure as mentioned in sub-section (1) of section 22N];*

Thus the transfer from one Police Station to other Police Station within the Police Commissionerate is also held as transfer.

8. **Union of India Versus S.L. Abbas reported in 1994 SCC (L&S) 230.** The Hon'ble Supreme Court has discussed the scope of judicial review in respect of transfers and held that the transfer is an incident of Government service and that jurisdiction of the State Tribunal is akin to

the jurisdiction of the High Court under Article 226 of the Constitution of India in service matters. As the Tribunal is created under Article 323 A of the Constitution of India and it further held,

*“7. Who should be transferred where is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by malafides or is made in violation of statutory provisions, the Court cannot interfere with it. While ordering the transfer there is no doubt the authority must keep in mind, the guidelines issued by the Government on the subject.”*

9. ***Sunil Ashokrao Koli Versus the State of Maharashtra, in Writ Petition No.91 of 2019 dated 04.01.2019.*** The Petitioner, Tahsildar had challenged his mid-term transfer from Mumbai to Pune, wherein it The Division Bench of Bombay High Court held that,

*“recording of reasons is not an empty formality, but a safeguard is provided so that the normal rule is not deviated for an asked. The recording of reasons is also necessary, so that the Tribunals and Courts can exercise their powers of judicial review in an effective manner, so as to assess as to whether the reasons on which the midterm transfer is effected are proper or not.”*

Thus the Tribunal needs to look into the reasons and verify whether the reasons are genuine and sustainable in law.

10. ***Kishor Shridharrao Mhaske vs Maharashtra Obc Finance, 2013 (3) ABR 51.*** The mid-term or mid-tenure transfer was challenged on the ground of non-observance of Section 4(5) of The Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (hereinafter referred at ‘ROT Act 2005’ for brevity). The Division Bench of Bombay High Court held that,

*“The mid-term or pre-mature special transfer has to be strictly according to law, by a reasoned order in writing and after the due and prior approval from the competent transferring authority concerned for effecting such special transfer under the Act. The exercise of exceptional statutory power has to be transparent, reasonable and rational to serve objectives of the Act, as far as possible, in public interest. Mandatory requirements of the provision under Section 4(5) of the Act cannot be ignored or by-passed. The exceptional reasons for the special mid-term or pre-mature transfer ought to have been stated in writing.”*

11. The assurance of stability and consistency is necessary for smooth working and discharging duty effectively at a particular place which may be a post, posting, office or Department. In the minutes of meeting held by P.E.B. dated 05.11.2020 the word used is ‘transfer’ under Section 22N(1) and Section 22N(2) of the Maharashtra Police (Amendment) Act, 2015 that the Applicant and Respondent No.3 are thus transferred. In the P.E.B. the cases of nearly 44 to 45 Police Personnel were considered and they all were transferred. In the minutes of meeting of P.E.B. dated 05.11.2020 show that persons who are transferred were categorized under different heads. The Applicant and Respondent no.3 were transferred under the head of “transfer and not due, but for administrative exigency and on request.” It was argued by the Respondents that both were transferred vis-à-vis on the ground of administrative exigency and not on request. On the same day the orders were issued by the Joint Police Commissioner, Thane. Respondent No.2 was earlier transferred to Special Branch by order dated 16.02.2019 from Shil-daighar Police Station to Special Branch. It shows that she was

earlier holding the charge of separate Police station and she was in the field. However, she was transferred to Special Branch and after 1½ year again the Police Commissioner, Respondent No.1 wanted to bring her back in the field for the reasons that there are very few female Police Officers holding higher posts of Sr. P.I. are working in the field. Apparently this reason of transferring her to give exposure and opportunity to the female officer look laudable, however, it does not stand to the logic and reason so far as it is not genuine. Her earlier posting shows that she was given opportunity in the field. If at all this was the real object then she should have been given any other posting to some other police station instead giving posting to Special Branch. Neither Respondents No.1 and 2, nor Respondent No.3 have stated in the reply that Respondent No.3 has requested the authority to transfer her from Special Branch and therefore it is to be presumed that her transfer was not on request.

12. Both the parties have relied and cited many rulings on the point of following the rules and procedure under Section 22N of Maharashtra Police (Amendment) Act, 2015 and so also on the point of administrative exigency and the law laid down therein is a guiding line. However, whether it is really helpful to the party to refute the claim of other party is only to be seen.

13. The Hon'ble Supreme Court in ***Ramadhar Pandey Versus State of U.P. reported in 1993 AIR SCW 2581*** dealt with the issue of

transfer of ex-cadre post of Joint Secretary. This particular ruling is not applicable.

14. ***Vaishali Vikrant Jadhav Versus The State of Maharashtra & Ors., in Writ Petition No.202 of 2018 dated 07.03.2013.*** The Division Bench of the Bombay High Court held that there is only posting and not transfer. Hence, 22N of the Maharashtra Police (Amendment) Act, 2015 is not applicable in view of the set of facts of this case.

15. ***The State of Maharashtra through the Additional Chief Secretary (Home) Department Versus Shri Siddharth Krushnarao Kasbe, Writ Petition No.14200 of 2016, decided on 20.01.2017.*** The Police Inspector working at R.A.K. Marg Police Station, Mumbai was transferred as Sr. P.I., Protection and Security Branch, Mumbai challenged the mid-term transfer. The Petitioner was transferred on the ground of various complaints and default in duty. The reports were placed before the P.E.B. and therefore conscious decision was taken of mid-term transfer. The Division Bench of Bombay High Court held that under such circumstances the recommendations of P.E.B. need not contain reasons in support of recommendations subjective satisfaction arrived at by the P.E.B. and transferring authority need not be probed into any detail and reasons for arrival at conclusion need not be a matter of judicial security and therefore the order passed by the Tribunal cancelling the transfer was set aside.

16. In the present case, no such record is available against the applicant and the applicant was not produced before the P.E.B.. The decision transferring him was taken necessarily to accommodate Respondent No.3 with a view to give her better exposure in the field. However, it cannot be done at the cost of causing injustice to the other person, it is not permissible in law.

17. In ***Pradip Balkrushna Lonandkar Versus State of Maharashtra and Others, Writ Petition No.7554 of 2013 decided on dated 22.11.2013.*** The Police Personnel had challenged the transfer. In the said case the Division Bench of Bombay High Court considered the case of ***Rajendra Shankar Kalal Versus State of Maharashtra, Civil Writ Petition No. 8898 of 2010 decided on 30.11.2010,*** where the officer Mr. Kalal was transferred and posted in the same office at Nashik and in the Kalal's matter it was held that it was not transfer, hence did not warrant compliance of provisions of 'Transfer Act, 2005'. The Division Bench of Bombay High Court in the case of ***Pradip Balkrishna Lonandkar (cited supra)*** held it is not as if over shifting or posting order would necessarily amount to transfer. It has also referred to judgment of ***Ramesh Pandurang Shivdas in Writ Petition No.3301 of 2010 decided on 11.10.2010*** and held therefore the term must be seen in the backdrop of contextual interpretation and provisions of Transfer Act, 2005. It also held that in Kalal's case the directions are given to the State to make necessary change in law of transfer.

18. It is to be noted that all these cases were decided prior to 2015 amendment.

19. ***The State of Maharashtra & Ors. Versus Jivajirao J. Jadhav & Ors. Writ Petition No.3894 of 2016, decided on 04.04.2016.*** The Division Bench of Bombay High Court dealt with the word 'Transfer' and relied on Section 2(6A) of the Maharashtra Police (Amendment) Act, 2015 which defines 'General Transfer' in the following terms :-

*“3] The order in Writ Petition No.5001 of 2016, upon which reliance was placed by Mr, Yadav is an interim order. Besides, the interim order was made in the context of unamended provisions of the Maharashtra Police Act 1951 (said Act). Admittedly, with effect from 1 February 2014, the said Act has been amended and Section 2(6A) defines the expression “General Transfer in the following terms :*

*“General Transfer” means posting of a Police Personnel in the Police Force from one post, office or Department to another post, office or Department in the month of April and May of every year, [after completion of normal tenure as mentioned in sub-section (1) of section 22N.”*

Thus posting from one police station to another also constitutes transfer as per Section 2(6A) of the said Act.

20. ***Ashok Rangnath Barde Versus State of Maharashtra, Writ Petition NO.5320 of 2018, decided on 22.12.2018.*** The Petitioner, Constable transferred from Aurangabad to Kannad (Rural) Police Station within a year on account of serious complaints against the petitioner. Therefore, the Division Bench of High Court of Judicature at Bombay, Aurangabad Bench held that the impugned transfer cannot be faulted with. The Division Bench has also considered the term “place of posting’

which is not defined under the Act. However, it held that if the term “place of posting’ defined in the act are taken in conjunction and interpreted with reference to the term general transfer it may cover the transfer from one post, office or Department to another post, office or Department at the same Station. Such interpretation is not acceptable, however, in the said judgment the Division Bench has only considered, referred and relied on the case of **Rajendra Shankar Kalal (cited supra)** which was prior to the amendment in the Maharashtra Police Act and it has not considered the object and ratio laid down in the case of **Prakash Singh (cited supra)** hence conclusively no ratio is laid down in the said case.

21. **Vazeer Hussain Shaikh Versus State Of Maharashtra in Writ Petition No.6809 of 2017, decided on 15.11.2017.** He has challenged the order of the transfer. However, in the said matter the Division Bench of High Court of Judicature at Bombay, Nagpur Bench held that grounds of administrative exigency and public interest are supported by the material presented before them and he failed to show prejudice which is from one Branch to another Branch in the City of Nagpur and therefore it was dismissed.

22. The Hon’ble Supreme Court in **Mohinder Singh Gill & Anr. Versus The Chief Election Commissioner, New Delhi & Ors, reported in 3 AIR 1978 SC 851** dealt on the point of judicial review. It dealt with the amplitude of powers and the width of the functions which the

Election Commission under Article 324 of the Constitution of India. This is not useful to either of the parties.

23. ***The Director (Training) Vocational Education and Training, Maharashtra State & Anr. Versus Mrs. Jyoti Shivaji Bade & Ors., Writ Petition No.7443 of 2017 dated 19.06.2018.*** While dismissing the Petition of Mrs. Jyoti, the Division Bench of Bombay High Court set aside the order of transfer of lady constable who had sacrificed the benefit of higher grade pay, with a view so that she can work in the lower post of judicial work and reside with her family members. It also held that the reasons for the transfer are not tenable on the ground of different cadre is not sustainable.

24. In the judgment of Maharashtra Administrative Tribunal, Mumbai in ***O.A.No.780/2014, Dr. Dilip Avchitrao Deshmukh Versus State of Maharashtra dated 10.10.2014,*** the Single Bench of the Tribunal set aside the order of transfer dated 25.08.2014. The Applicant was transferred from the post of Deputy Chief Executive Officer (General), Zilla Parishad, Thane to the post of Deputy Chief Executive Officer, Water Supply and Sanitation, Zilla Parishad, Thane within 2 ½ months. The Tribunal held that he was transferred within the same headquarters and no special reasons were stated and hence it cancelled the transfer.

25. In the judgment of this Tribunal in ***O.A.No.897 of 2014 & 7 Ors., Shri Sudam Atmaram Mandarekar Versus The Commissioner of***

**Police, Navi Mumbai, dated 19.12.2014** all the Applicants, Police Officers, were transferred on account of complaints against them. The learned Advocate relied on **Pradip Balkrishna Lonandkar (cited supra)**, wherein the Hon'ble High Court has held that local transfer does not fall within the definition of transfer and therefore the Chairman, M.A.T. had dismissed the O.A. however this case was prior to amendment.

26. In **O.A.No.546 of 2014 Shri Haribhau Narayan Khade Versus The State of Maharashtra & Ors., dated 16.09.2014**, the Applicant, Police Personnel was transferred within Solapur City. The said impugned order was cancelled by M.A.T., as it was breach of Section 22N(1) of the Maharashtra Police (Amendment and Continuance) Act 2014.

27. In **O.A.No.69 of 2015, Shri Rajeevsingh Sitaramsingh Parmar Versus The State of Maharashtra & Ors., dated 19.03.2015** the Applicant was to retire on 31.03.2015 and he was transferred on 27.01.2015. For want of exceptional circumstances and special reasons the transfer was cancelled.

28. In **O.A.No.455 of 2015, Shri Vilas Sheshrao Suryawanshi Versus The Commissioner of Police, & Anr., dated 26.11.2015**, the Applicant was transferred from Kasar Wadawali Police Station to Special Branch, Thane. However, the transfer was upheld as his case was

covered under Section 22N(2) though it is mid-term transfer at it was complied under Section 22N(2). Hence, the O.A. was dismissed by this Tribunal.

29. In **O.A.No.498 to 508 of 2019, Shri Rajendra Damodar Nanaware Versus The State of Maharashtra & Ors. dated 09.08.2019**, the 11 Police Constables in Social Security Cell Crime Branch challenged the transfers to various Police Stations within the Commissionerate Pune before completion of their normal tenure and so the transfers were under Section 22N(2) of the Maharashtra Police Act, 2015. On the ground that their services and experience can be utilized at Police Station to Crime Branch it was held that such mass transfers is not administrative exigency and administrative exigency is a question of fact that it needs to be considered from the point of service jurisprudence. This Tribunal allowed Original Applications.

30. In **O.A.No.562, 744, 677 & 869 of 2015, Shri Sham Mahadev Sundkar Versus The State of Maharashtra, dated 20.11.2015** all the Applicants who are working as Police Personnel in Traffic Branch, Mumbai were transferred mid-tenure under Section 22N(1). It is held that the definition of 'tenure' has undergone the basic change after Ordinance of 2015. In the absence of approval of the competent authority for mid-term transfer this Tribunal cancelled orders of transfers.

31. In **O.A.No.609 of 2015, Shri Rajendra Mahadev Todkar Versus The State of Maharashtra, dated 10.03.2016** the applicant was transferred from Bibvewadi Police Station, Pune to Traffic Branch, Pune on the ground of complaints against him. The order was set aside by this Tribunal on the ground of violation of provisions of Section 22N(2) of Maharashtra Police Act, 2015.

32. In **O.A.No.193 of 2016, Shri J.J. Jadhav Versus The State of Maharashtra, dated 24.02.2016**, the ACP was transferred to Armed Police Forces, Mumbai from Mahim Division. The Tribunal while passing the interim order held that the Maharashtra Police Act, 2014 was amended by ordinance dated 16.02.2015 and so the person transferred at the same station or place will not amount to transfer under ROT Act, 2005, however it is not the case under Maharashtra Police (Amendment) Act, 2015.

33. In **O.A.No.466 and 467 of 2016, Shri Arun Ramchandra Pawar Versus The State of Maharashtra & Ors. dated 12.07.2016**, the Applicants, Police Inspector were transferred. The transfer order of two applicants was held unsustainable for want of special reasons.

34. In **O.A.No.621 of 2016 and O.A.No.622 of 2016, Shri Kishor Babanrao Jagtap Versus The State of Maharashtra, dated 10.08.2016**, the Applicants have challenged the mid-term transfer. The Applicants were sent back. The transfer of one of the Applicants to

Gadchiroli on account of his age and for want of compliance was cancelled.

35. In **O.A.No.13 of 2017, Aurangabad Bench, Shri Ramesh Narayan Swami Versus The State of Maharashtra, dated 22.09.2017**, the PSI was transferred from Police Station Mudkhed District Nanded to Shivaji Nagar Police Station, Nanded challenged the mid-term transfer order. It was cancelled by this Tribunal for not following the procedure under Section 22N(2) of Maharashtra Police Act.

36. In **O.A.No.668 of 2017, Smt. Ujwala Santosh Ghavte Versus The State of Maharashtra & Ors., dated 17.01.2018**, the Applicant, Assistant Engineer in P.W.D. was transferred from Medical Sub Division, Pune to Sub Division No.1, P.W.D. at Pune. The transfer order was quashed by this Tribunal as it was made in violation of statutory rules. It was held that it is the “transfer” within the meaning of scope of term transfer as defined in Section 2(i) of ROT Act, 2005.

37. In **O.A.No.861 of 2018, Shri Rajendrakumar V. Trivedi Versus The Government of Maharashtra & 3 Ors. dated 28.11.2018**, the ACP was transferred mid-tenure by order dated 07.08.2018 from Sion to Local Armed Naigaon. It was held that the transfer was malafide and in contravention of Section 22N of Maharashtra Police Act, 2014. The Tribunal has held that the amended provision of Maharashtra Police Act, 2015 was completely changed and the provision of Act, of 2005 cannot

be considered and cannot be borrowed. The Tribunal rejected the case of the State that shuffling of Police Personnel by way of internal postings from one place to another in Commissionerate only, does not amount to Transfer. In the said case, ex-post facto sanction was taken for transfer which cannot be countenanced by the Courts and therefore, the O.A. was allowed. However, this order was interim and was stayed in the High Court.

38. In ***O.A.No.900 of 2018, Shri Prashant Suresh Pisal Versus The Principal Secretary & 2 Ors. dated 20.12.2018***, the applicant Assistant District Supply Officer, Pune was transferred to Tahasildar, Haveli, Pune. He was transferred mid-term. It was in breach of Section 4(4) and Section 4(5) of ROT Act, 2005 and therefore cancelled by this Tribunal.

39. In ***O.A.No.736 of 2019, Shri Sheshrao Namdeo Bade Versus The State of Maharashtra, dated 11.09.2019***, the Applicant was from Education Officer (Secondary), Zilla Parishad, Thane to the post of Education Officer, (Continuous Education), Zilla Parishad. The Tribunal held that the CSB did not recommend the transfer though approval of Hon'ble the Chief Minister was taken. There were complaints made against the applicant, was one of the ground to transfer him. Nothing was mentioned to indicate the reasons for the transfer. The Tribunal held that only to accommodate Respondent No.2, the applicant was

displaced mid-term and that too on the recommendations of Member of Parliament which is not acceptable in law.

40. Thus considering the ratio laid down in the various cases as discussed above, as placed before me, it appears that no law is laid down conclusively on Section 2(6A) of the said Act by the Bombay High Court and this Tribunal has taken a view consistently that any shifting from post, posting, office, department to other post, posting office, department under same Commissionerate amounts to transfer under Section 2(6A) of the said Act. Moreover, the Respondents-State did not challenge the orders of this Tribunal cancelling the transfers of the Police Officers by applying definition under Section 2(6A) of the Maharashtra Police Act. Thus it appears that the Respondents-Government has also accepted the view expressed in many matters on the point of Section 2(6A) of the Maharashtra Police Act. I take the same view and hold that the shifting of the applicant from Shil-daighar Police Station to Special Branch amounts to transfer.

41. The word 'administrative exigencies' or 'public interest' cannot be used routinely but considering the facts and circumstances involved in the case the real reason to accommodate somebody on his or her request should not be camouflaged in the name of administrative exigencies or public interest. The authority can transfer the Police Personnel to any post or can be given any posting only after the tenure is over and can transfer mid-tenure or mid-term after making out a genuine case of

public interest or administrative exigencies. However, as per the G.R., the transfer orders could be issued till 31.10.2020, but in the present case the applicant is transferred on 05.11.2020. Hence, it is beyond the Government's own policy.

42. In view of the facts and law discussed above, it is difficult to accept the case of the Respondents and the reasons given therein for transfer of the Applicant. Therefore impugned order of transfer is found not legal and valid and requires interference.

### **ORDER**

- (a) The Original Application is allowed.
- (b) The impugned transfer order dated 05.11.2020 is hereby set aside and quashed.
- (c) In the result, the Applicant and Respondent No.3 to join their respective earlier postings.
- (d) No order as to costs.

Sd/-

**(MRIDULA BHATKAR, J.)**  
**CHAIRPERSON**

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