

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR**

ORIGINAL APPLICATION NO.695 OF 2019

DISTRICT : GONDIA

Shri Umesh Mohanrao Patil.)
Aged about 48 Yrs., Occu.: Police Inspector)
R/o. E-1 Bunglow, Sai Colony, Balaghat)
Road, Gondia, Tah. & Dist.: Gondia.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through its Principal Secretary,)
Home Dept., Mantralaya,)
Mumbai – 32.)
2. The Director General of Police (M.S),)
Hutatma Chowk, Mumbai.)
3. The Dy. Inspector General of Police.)
Gadchiroli Region, Tah. & District)
Gadchiroli.)
4. The Superintendent of Police.)
Gondia, Patanga Ground, Fulchur,)
Gondia, Tah. & District : Gondia.)...**Respondents**

Mr. S.N. Gaikwad, Counsel for Applicant.

Mr. M.I. Khan, Presenting Officer for Respondents.

CORAM : SHRI A.D. KARANJKAR, MEMBER-J

DATE : 23.01.2020

JUDGMENT

1. The Applicant is challenging the impugned transfer order dated 22nd August, 2019 on the ground that the order is illegal and though there were no circumstances for the pre-mature transfer, but he was

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transferred without assigning the sound legal reasons. It is submitted that the exercise of jurisdiction by the transferring authority was mala-fide, and therefore, the transfer order is liable to be set aside.

2. The learned P.O. had justified the transfer order alleging that in view of the lapses committed by the Applicant, all matter was placed before the District Police Establishment Board and after considering it, it was recommended by the Board that it was necessary in the interest of public at large to transfer the Applicant, and therefore, there is no illegality or malice in the transfer order.

3. It appears from the record that the Applicant was posted in Mumbai City and vide order dated 20th April, 2017, he was transferred to Gondia. Then vide order dated 1st June, 2017, the Applicant was posted as Police Inspector, Special Branch, Gondia. Vide order dated 13th August, 2017, the Applicant was transferred to District Transport Branch, Gondia. Again on 8th June, 2018, the Applicant was transferred as Police Station Officer, Ramnagar Police Station, Gondia. Vide order dated 26th October, 2018, the Applicant was transferred to Police Station, Amgaon. Vide order dated 1st July, 2019, the Applicant was posted as Police Station Officer, Police Station, Gondia City and vide impugned order dated 22nd August, 2019, the Applicant was posted at Police Control Room, Gondia. It seems that within a span of about two and half years, the Applicant was transferred frequently for more than 6 to 7 occasions.

4. It is the contention of the learned P.O. that as per the exigency and administrative need, the Applicant was transferred time to time. The Id. P.O. has placed on record Annexure 'R-4'. After going through these documents, it seems that the main reason for transfer of the Applicant was that two employees working under the Applicant were trapped under the Prevention of Corruption Act and on the basis of this, the Applicant came to be transferred. It appears from the history that on about 6 to 7

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occasions earlier, the Applicant was transferred before expiry of normal tenure. The reason given to justify the impugned transfer, in my opinion, is apparently lame excuse. The Head of the Office cannot be transferred for the reason that his subordinate was involved in a crime, when there is no allegation that the crime was abated by the officer or he gave any undue help to the subordinate. Under these circumstances, it is very difficult to accept that the present case was covered under Section 22N Sub-Section (1) proviso. It is not the contention of the Respondents that any disciplinary proceeding was initiated against the Applicant or contemplated against the Applicant, it is not a case that the Applicant was convicted by any Court or there were allegations of corruption against the Applicant or he was incapacitated otherwise from discharging his official duties. Even after reading Section 25 N (2), it is not possible to accept that the case was covered in it. The reason shown for the mid term transfer is not substantial for accepting that it was exceptional ground. It is vaguely alleged in the report submitted before the District Police Establishment Board that the Applicant was negligent in performing his duty because regarding this no substantial material was placed on record. When it is the contention of the Department that the person was negligent in performing his duty, it was necessary to show what defaults were committed by him and for which any memo was issued to him or charge-sheet was served on him for non-performance of duty punctually. Merely, the bald allegation that the Government servant was not performing duty punctually cannot be a substantial reason to transfer.

5. After reading the Judgment in the case of ***Kishor Siddharth Mhaske Vs. Maharashtra OBC Finance and Development Corporation : 2013 (1) Mh.L.J Page 463*** and the Judgment in the case of ***S.B. Bhagwat Vs. State of Maharashtra : 2003 Mh.L.J. Page 197***, the legal position emerges that merely mentioning that the person is transferred for administrative exigency is not sufficient compliance of the

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legal requirements. The law is that such allegations must be supported by some *prima-facie* evidence. In the present case, it seems that the Applicant was transferred time to time after intervals of 5 to 6 months and in such manner, he was transferred on 6 occasions. This indicates that the Head of the Department had some grudge against the Applicant and nothing more.

6. In view of this, I am compelled to say that the order impugned cannot be justified. Hence I pass the following order.

ORDER

- (A) The Original Application is allowed.
- (B) The order impugned transferring the Applicant from Police Station Gondia City to Police Control Room Gondia is hereby set aside.
- (C) The Respondents are directed to post the Applicant at Police Station, Gondia City.
- (D) No order as to costs.

(A.D. KARANJKAR)
Member-J

*Nagpur

Date : 23.01.2020

Dictation taken by :

S.K. Wamanse.

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I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : S.K. Wamanse

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 23/01/2020.

Uploaded on : 28/01/2020.