

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION No.698 of 2016

Shrikrishna Vishwanath Kardile)
R/at 604, Seawood Heritage Sector 4)
Kharghar, Tal. Panvel, Dist. Raigad.) ...Applicant

Versus

Director General of Police,)
Maharashtra State, Shahid Bhagat Sing)
Marg, Colaba, Mumbai 400 001.)Respondent

Shri C.T. Chandratre, Advocates for Applicant.

Ms N.G. Gohad , Presenting Officer for Respondents.

CORAM : SHRI R.B. MALIK (MEMBER-JUDICIAL)

DATE : 11.01.2017

ORDER

1. This Original Application is filed by an Inspector disputing the order dated 8.7.2016, Exb. A-1, page 7 of the Paper-Book, whereby he came to be transferred from Thane City to Police Training Centre, Marol effectively cancelling the earlier order and purportedly on his request.

2. I have perused the record and proceedings and heard Shri C.T. Chandratre, the learned Advocate for the applicant and Ms N.G. Gohad, learned Presenting Officer for the respondents.

3. Be it noted right at the outset that at the moment the applicant is armed with an interim order in effect retaining him at Thane city which order was made by the Hon'ble Vice-Chairman on 15.7.2016.

4. The issue is as to whether it is an instance of what can be called request transfer is at the heart of it. At page 32 of the Paper-Book, Exb. R1, there is a request letter dated 11.5.2016 addressed by the applicant PI to the Director General of Police, Mumbai mentioning therein inter-alia that he joined at the Marol Police Training Centre on 02.11.2012 from Nagpur city. He was suffering from spondylitis, there was a problem of education of his son and, therefore, he requested for being retained at PTC Marol for one year or he be transferred either to New Mumbai, Thane city or TRTI, Thane.

5. The next documents of some significance is an order of general transfer dated 24.5.2016, Exb.A-2, page 10 whereby the applicant came to be transferred from PTC, Marol to Thane city. It is a common ground that the applicant reported there at Thane City and was working for about two months when on 8.7.2016 by the impugned order he for all practical purposes was retransferred to PTS, Marol. That order is being questioned herein and on the strength of the interim order he continues to be at Thane city. It bears repetition that the impugned order mentions that it was a case of request transfer. I have already mentioned above that the request was either for retention or transfer to some place including Thane city which request was granted and the applicant had already joined there. What apparently happened going by the documents submitted on record is that the letter of request of 11.5.2016 was infact forwarded to the Director General of Police only on 16.6.2016 by which time the order dated 24.5.2016 had already been effectuated and, thereafter, on 8.7.2016 the impugned order was issued purportedly accepting the request for transfer.

6. The above discussion would make it quite clear that it is not even necessary to examine as to whether it is a case of non application of mind. Be it as it may, the applicant cannot be made to suffer. It is, therefore, not a case of request transfer and once the transfer was effected and the applicant joined at Thane then the plain legal position obtaining as per relevant provisions of applicable law namely Maharashtra Police Act with particular reference to Section 22N is that he would have to be allowed to continue

there till he completes his tenure. His request as per the letter dated 11.05.2016 was a composite one either for retaining him at PTC, Marol or for transfer to a place which he was actually transferred to and that request was effectively granted. Substantially on these facts and reasoning interim relief was granted and in my opinion the same deserves to be confirmed.

7. The issue of competence of transferring authority was raised in the O.A. but not pressed. For the forgoing the order herein impugned Exb.A-1, page 7 of the Paper-Book dated 8.7.2016 in so far as it relates to the applicant (Sr.No.48) stands hereby quashed and set aside. The interim order dated 15.7.2016 stands hereby confirmed. The applicant be allowed to continue to function at the post he is presently functioning till such time as he becomes due for transfer in accordance with the relevant provisions of law.

8. The Original Application is allowed in these terms with no order as to cost.

Sd/-
(R.B. Malik)
Member (J)
11.01.2017

Diction taken by :-vsm

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