

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO. 743/2012

Ashok S/o Dattatrya Bhairav
Aged 57 years, Occupation : Service
R/o : Murtizapur Police Station,
Murtizapur, District Akola.

Applicant

- **Versus** -

- (1) The State of Maharashtra
Through its Secretary,
Department of Home,
Mantralaya, Mumbai -32.
- (2) The Director General of Police Force,
Maharashtra State Police Headquarters,
Old Council Hall, Shaheed Bhagat Singh Marg,
Mumbai-5.
- (3) The Superintendent of Police,
Akola District, Akola.
- (4) Sunil Sonawane
Aged about 48 yrs Occ : Service,
R/o : Murtizapur Police Station,
Tq. Murtizapur, District Akola.

Respondents

S'Shri A. S. Chandurkar, S. J. Kadu, Advocate for the applicant
Shri G. K. Bhusari, Advocate for the respondent no. 4
Shri A. P. Sadawarte, P.O. for the respondent nos. 1 to 3

**Coram :- The Hon'ble Shri Justice A. P. Deshpande,
Vice Chairman**

Dated :- January 24, 2013.

ORALORDER

Heard Shri. A. S. Chandurkar, learned counsel for the applicant, Shri. G. K. Bhusari, learned counsel for the respondent no. 4 and Shri. A. P. Sadawarte, learned P.O. for the respondent nos. 1 to 3.

2. The O.A. is taken up for final disposal at the admission stage with the consent of the learned counsel appearing for respective parties.

3. The applicant is holding the post of Police Inspector and was posted at Murtizapur since 31-8-2009. By the impugned order of transfer dated 31-8-2012, the applicant has been transferred from Murtizapur to Akola. It is this order of transfer which is challenged by filing the present O.A. It is undisputed that the applicant had already joined at the transferred place, i. e.

at Akola in compliance of the order dated 31-8-2012 and thereafter instituted the present O.A. on 7-9-2012. Having regard to the fact that the applicant had already joined at Akola, prayer for interim relief was not pressed by the learned counsel for the applicant. What is relevant to note is that the applicant is to retire from service on attaining age of superannuation on 31-5-2013 i.e. within a period of four months. After the transfer of the applicant from Murtizapur to Akola, the applicant's vacancy at Murtizapur has been filled in by posting the fourth respondent in his place. In this peculiar fact situation, I am called upon to examine whether, is it necessary to interfere with the transfer order at this juncture or otherwise ?

4. Shri. A. S. Chandurkar, learned counsel for the applicant submits that as the transfer is a mid-term transfer, it was obligatory on the transferring authority to have obtained prior approval of the Chief Minister having regard to the provisions of Section 6 of the Transfer Act, 2005. It is then

pointed out that the prior approval was in fact granted by the Special Inspector General of Police, Amravati and the same is not in conformity with the Circular dated 31-10-2010. It is also submitted that the prior approval granted by the next higher transferring authority is temporary in nature. In my view, as the powers are delegated under the proviso to Section 6, it cannot be said that the transfer of the applicant has been effected without complying with the provisions of the Transfer Act. Be that as it may, in the peculiar facts and circumstances of the present case, I am not inclined to exercise my discretion in unsettling the settled position in view of ensuing retirement of the applicant in the month of May. Hence there being no merit in the O.A., same stands rejected, however with no order as to costs.

sd/-

(Justice A. P. Deshpande)
Vice Chairman

ayw/-