

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 801/2015**

Santosh S/o Bhimrao Napte,  
Aged about 38 years, Occ. Service,  
R/o Yojna Colony, Tata Road,  
Washim, District Washim.

**Applicant.**

**Versus**

- 1) State of Maharashtra through  
Principal Chief Secretary, Home Department,  
Mantralaya, Mumbai-32.
- 2) Director General of Police,  
near Regal Talkies, Shaheed Bhagat Marg,  
Colaba, Mumbai-01.
- 3) Special Inspector General of Police,  
Amravati Range, Amravati.
- 4) Superintendent of Police,  
Washim, District Washim.
- 5) Shri Tushar Patil,  
Additional Superintendent of Police,  
Ratnagiri, District Ratnagiri.

**Respondents.**

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**Shri M.R. Khan, Advocate for the applicant.**

**Shri M.I. Khan, P.O. for the respondents.**

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**Coram :- Hon'ble Shri A.D. Karanjkar,  
Member (J).**

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## **JUDGMENT**

**(Delivered on this 22<sup>nd</sup> day of November,2018)**

Heard Shri M.R. Khan, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. The applicant is disputing the legality of the transfer order dated 31/5/2014. It is contention of the applicant that respondent no.5 without authority transferred the applicant from Finger Print Department, (Local Crime Branch), Police Station, Washim to Police Station, Dhanaj. It is also contended by the applicant that his transfer order was malafide for the reason that the respondent no.5 and other Police Officers were constantly harassing him. The applicant received a witness Summons in Crime No.379/2011, it was informed by the applicant that he did not witness anything in that crime, his statement was not recorded by the Investing Officer, but no heed was paid and he was constantly threatened by the senior police officers. The applicant time to time made representations to higher Police Officers, he was requesting for personal interview, but no one paid heed to him. On the contrary the respondent no.5 called him in chamber and abused him in filthy language. Similarly the Head Clerk attached to the office of respondent no.4 threatened the applicant. It is contention of the applicant that several Police Officials who were stationed at

Washim were due for transfers, but they were not transferred and therefore, the impugned transfer order is illegal, it is liable to be set aside. The applicant's grievance is that the representations made by him time to time are not decided, therefore directions be given to the respondent authorities to decide his representations and directions be given to respondent nos. 1 and 2 for initiating departmental inquiry against respondent no.5.

3. The respondent nos. 2 to 5 have submitted joint reply which is at P.B. page no.72. According to the respondents, the nature of the applicant is quarrelsome and false allegations are made by him only with view to avoid the transfer. It is contended that the applicant joined service in the year 1996, he was posted in the office of Police Commissioner, Mumbai. Later on in the year 1999 the applicant was transferred to Washim and he was posted at Washim. He completed the training in photography, particularly Chance Print photography, he completed 6 years tenure in the post and at Washim he completed total 13 years of service, therefore, he was transferred. It is denied that indecent treatment was given by respondent no.5 to the applicant or he was harassed. It is contended that considering the specialization of the other constables and specialization of the applicant, postings are given in general transfers and there is no illegality or malafides in the transfer order. It is contended that the

application is devoid of any merit and it is liable to be dismissed with costs.

4. I have heard submissions for the learned counsel for the applicant and learned P.O. On perusal of the documents it seems that the applicant joined service on 11/2/1996 in the office of commissioner of Police, Mumbai. In the year 1999 the applicant was transferred in the office of Superintendent of police, Washim and since then the applicant was working at Washim till February, 2015. It appears from the facts and circumstances of the case that after 1999 joining the posting at Washim the applicant was promoted as Police Naik and subsequently he was promoted as Police Head Constable in t and he was serving at Washim till his transfer to Dhanaj.

5. As a matter of fact the applicant worked for a period about 15 years continuously at Washim. The applicant was overdue for transfer, therefore, it was choice of the authority to transfer the applicant to a suitable post. The legal position is settled that while ordering the transfer of Government employee, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject, but the said guidelines do not confer upon the Government employee a legally enforceable right. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in

violation of any statutory provisions, the Courts or Tribunals can not interfere. It is contended by the applicant that his case was not recommended by the District Police Establishment Board, but it is important to note that the applicant himself made allegations against Members of the District Police Establishment Board. Annex-A-10 is copy of application addressed to the Superintendent of Police, Washim, it is dated 2/6/2014. The Annex-A-10 contradicts the contention that there was no recommendation by the District Police Establishment Board. In Annex-A-10 only objection of the applicant was that options were not called from him, he had lodged complaint against Shri Bawane, Head Clerk and allegations against respondent no.5. It is pertinent to note that in Annex-A-10 it is nowhere mentioned that the applicant was abused and insulted by respondent no.5 in filthy language. On the basis of this material inference is to be drawn that only to avoid the transfer such allegations are made by the applicant.

6. In case of Union of India V S.L.Abbas AIR 1993 S.C. 2444 it is held that Who should be transferred where is a matter of for appropriate authority to decide. In para 6 it is observed that the whole time fo a Government servant is at the disposal of the Government which pays him and he may be employed in any manner required by proper authority.

7. The applicant is placing reliance on document at Annex-A-13. It is addressed to Additional Chief Secretary, Home Department, Mantralaya, Mumbai. In this case it is alleged by the applicant that other Police Officers who were due for transfer, were not transferred and some Police Officers who were transferred, but they were allowed to work at Washim on deputation. The applicant has made such allegations, but he is forgetting his continuous stay of 15 years at Washim. Similarly all these Police Officers who were retained they are working either in Dog Squad, Bomb Squad, Computer Sections, Police Head Quarter and in the office of SDPO etc. It must be remembered that it is duty of the head of the department to run the administration in smooth manner and head of the department is the best judge to know the need of the department and which person is suitable in which place. The category of the applicant was specialized police personnel, the applicant had completed the course of Chance Print Photography, he was attached to Finger Print Department, Local Crime Branch and he was transferred to Dhanaj. It is not contention of the applicant that there was no need of his duty at Dhanaj, if all these facts and circumstances are considered then it is difficult to draw the inference that the transfer of the applicant was malafide or it is actuated by malice. Therefore, I do not see any merit in this application. So far as the representations made by the applicant are

concerned, the applicant may request the higher authorities to decide the representations. The prayer of the applicant to initiate an inquiry against respondent no.5 is concerned, it is not possible to grant such relief to the applicant in this proceeding. In the result, I pass the following order:-

**ORDER**

The O.A. stands dismissed with no order as to costs.

**Dated** :- 22/11/2018.

\*dnk.

**(A.D. Karanjkar)**  
**Member (J).**