

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.852 OF 2018**

**DISTRICT : SOLAPUR**

Shri Prabhuling B. Waghmare. )  
Age : 56 Yrs., Working as Police Head Constable,) )  
Residing at House No.393-J, Renuka Nagari, ) )  
Jule Solapur, Solapur. )...**Applicant**

**Versus**

1. The State of Maharashtra. )  
Through Additional Chief Secretary, )  
Home Department, Mantralaya, )  
Mumbai - 400 032. )
2. The Superintendent of Police. )  
Solapur Rural, Sidheshwar Peth, )  
Near Collector Office, Solapur – 413 001.)...**Respondents**

**Mrs. Punam Mahajan, Advocate for Applicant.**

**Mr. A.J. Chougule, Presenting Officer for Respondents.**

**CORAM : SHRI A.P. KURHEKAR, MEMBER-J**

**DATE : 08.02.2019**

**JUDGMENT**

1. In this Original Application, the challenge is to the transfer order dated 15<sup>th</sup> September, 2018 invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. The Applicant is serving as Head Constable. In 2015, while he was posted at Pangari Police Station, District Solapur, he was transferred to District Traffic Branch by order dated 02.05.2015 by way of attachment. Since then, he continued at District Traffic Branch, Solapur till the passing of impugned order dated 15.09.2018. On 03.09.2018, he made a representation requesting the Department to continue him at District Traffic Branch, Solapur on the ground of family difficulties. However, without considering his representation, by impugned order dated 15<sup>th</sup> September, 2018, he was repatriated to Pangari Police Station. The Applicant has challenged this impugned order contending that, it is mid-term and mid-tenure transfer and in contravention of Section 22N of Maharashtra Police (Amendment) Act, 2015 (hereinafter referred to as 'Act 2015'). He contends that his colleagues Shri Galekar and Shri Dahale, who were along with him attached to District Traffic Branch, Solapur were not repatriated, but they were allowed to continue at District Traffic Branch, Solapur. On this ground, the Applicant contends that he has been subjected to discrimination. The Applicant further contends that, he is due for retirement in 2021, and therefore, he ought to have been continued at District Traffic Branch, Solapur. He, therefore, prayed to set aside the impugned order dated 15.09.2018.

3. The Respondents resisted the application by filing Affidavit-in-reply (Page Nos.18 to 28 of Paper Book) *inter-alia* denying the allegation of Applicant that the transfer is discriminatory or in contravention of provisions of Section 22N of 'Act 2015'. Undisputedly, the Applicant was posted at Pangari Police Station in 2014 and by order dated 02.05.2015, he was deputed and attached temporarily to District Traffic Branch, Solapur for additional work until further orders. As such, the order dated 02.05.2015 was not transfer order, but it was temporary arrangement which was accepted by the Applicant without any demur or challenge. As regard impugned transfer dated 15.09.2018, the Respondents contend that Police Personnel who were temporarily attached at District Traffic Branch, Solapur were required to be repatriated and reposted at their original

place of posting. Accordingly, in the meeting of PEB held on 11.09.2018, it was found that the deputation of such Police Personnel for a long time was contrary to law, and therefore, the PEB unanimously resolved to send 32 Police Personnel to their original posting at different places in Solapur District. The Respondents, therefore, contend that for the administrative exigencies and smooth functioning of the Department, such decision was taken and it is in compliance of Section 22N(1)(ii) of 'Act 2015'. The Respondents further contend that, though by order dated 02.05.2015, the Applicant was temporarily shifted to District Traffic Branch, Solapur, his pay and allowances were continuously drawn from the Establishment of Pangari Police Station. Now, the Applicant will complete five years tenure at Pangari Police Station in view of his repatriation to Pangari Police Station and due for transfer in general transfers of 2019. On these pleadings, the Respondents contend that there is no illegality or malafide in impugned transfer order, and therefore, the challenge to the same is untenable.

4. Smt. Punam Mahajan, learned Advocate for the Applicant vehemently urged that the earlier order dated 02.05.2015, whereby the Applicant has been shifted to District Traffic Branch, Solapur under the garb of temporary attachment itself is illegal, as even temporary deployment amounts to transfer in the eye of law. She further contends that the Applicant had worked at District Traffic Branch for more than three years, but by impugned order dated 15.09.2018, he has been again transferred to Pangari Police Station under the garb of repatriation. According to her, the order dated 15.09.2018 is nothing but mid-term as well as mid-tenure transfer and no case of administrative exigencies or public interest is made out, as contemplated under Section 22N(2) of 'Act 2015'. She also urged that the Applicant has been subjected to discrimination by not allowing him to continue at District Traffic Branch, Solapur. She, therefore, prayed to set aside the impugned order.

5. Per contra, the learned P.O. Shri A.J. Chougule reiterated the stand taken in reply that the order dated 02.05.2015 was temporary arrangement, whereby the Applicant was deployed from Pangari Police Station to District Traffic Branch, Solapur, as the continuation of Applicant and other Police Personnel who were temporarily shifted to Traffic Branch were found incorrect, and therefore, the remedial measures were taken. Accordingly, the PEB in its meeting dated 11.09.2018 resolved that for administrative convenience and exigencies, all such Police Personnel be shifted back to their original place of posting. Such decision was taken for a smooth administration of the Department, and therefore, it is in consonance of Section 22N(2) of 'Act 2015'.

6. Having heard the submissions advanced by the learned Counsels, the crux of the matter is, whether the impugned order dated 15.09.2018 amounts to transfer and it is in consonance of Section 22N(2) of 'Act 2015'.

7. At the very outset, it needs to be stated that, admittedly, the Applicant was posted at Pangari Police Station, Solapur in 2014 and by order dated 02.05.2015, he was temporarily deputed at District Traffic Branch, Solapur. The order dated 02.05.2015 is at Page No.12 of the P.B. which makes it quite clear that, it was temporary deployment and the Applicant will not be entitled to T.A./D.A. or any other allowances. Accordingly, the Applicant joined at District Traffic Branch, Solapur and continued there till the passing of impugned order.

8. Here, it is significant to note that the Applicant has not challenged the order dated 02.05.2015. Apparently, it was acceptable to him being convenient, and therefore, he joined District Traffic Branch, Solapur without any demur. Therefore, whether the order dated 02.05.2015 is transfer in the eye of law, now cannot be looked into. In fact, now the Applicant is estopped from raising any grievance challenging it after a period of more than three years.

9. In the present matter, the crux of matter will be, whether the impugned order dated 15.09.2018 amounts to transfer order and sustainable in law. No doubt, the Applicant has not completed five years' tenure at District Traffic Branch, Solapur till the passing of impugned order, and therefore, it has to be termed as mid-term and mid-tenure transfer.

10. As per Section 22N(2) in exceptional cases, in public interest and on account of administrative exigencies, the competent authority is empowered to make mid-term transfer of Police Personnel. In the present case, the PEB at District level is admittedly the competent authority for such mid-term and mid-tenure transfer. In this behalf, the perusal of minutes of PEB meeting (Page Nos.48 to 50 of the P.B.) held on 11.09.2018 reveals that the meeting was called to take decision about shifting of 131 Police Personnel and in the meeting, it was held that 32 Police Personnel (along with Applicant) who were temporarily deployed at District Traffic Branch or at other places, were required to be shifted back to their original posting from the point of administrative exigencies and convenience. Accordingly, 32 Police Personnel were shifted back to their original posting. Prior to this meeting, in earlier meeting dated 03.07.2018, it was decided to take review of shifting / transfer of the Police Personnel and information was called from the concerned Police Station and Branches. In the said meeting, for administrative convenience, again some Police Personnel were temporarily deputed as per the requirement of the Department and 32 Police Personnel who were temporarily deputed at various places in District Solapur temporarily were repatriated to their original place of posting. In reply, the Respondents contend that the continuation of all these employees on temporary deputation was found not legal, and therefore, they were repatriated. Such decision was necessary for administrative exigency. Admittedly, though the Applicant was attached to District Traffic Branch, Solapur, his pay and allowances were continued to be drawn from Pangari Police Station which is his original Establishment. Needless to mention, the orders of transfer are made in exercise

of service and unless it is shown that it is passed for collateral purpose or contrary in violation of express provisions of law, the same cannot be interfered with. In the present case, no such malafide can be possibly attributed in the impugned action.

11. In so far as alleged discrimination to the Applicant is concerned, I find no substance therein. As per order dated 15.09.2018, the Head Constable Mr. R.M. Golekar about which a reference is made, has been temporarily shifted to Local Crime Branch from Kakthi. Whereas, as per order dated 15.05.2018, A.S.I. Prakash Dhole, who was attached to Barshi City was temporarily attached to Solapur Taluka. Thus, their orders seems to be of temporary attachment at those places. Therefore, it cannot be said that the Applicant was subjected to discrimination by not continuing him to District Traffic Branch, Solapur.

12. It is well settled that the Court should not interfere with the transfer orders, which are made in public interest and for administrative reason, as the Government servant has no vested right to remain posted at one place and transfer order issued by competent authority cannot be said violate legal rights of the employee. In the present case, the minutes of PEB meeting are self-explanatory and the decision of transfer was taken for administrative exigencies. Therefore, it cannot be said that there is non-compliance of the provisions of law.

13. Reliance placed by learned Advocate for the Applicant on the decision passed by this Tribunal in ***O.A.551/2018 (Rajendra V. Manvar Vs. The Superintendent of Police) decided on 21.12.2018*** is misplaced. In that case, the Police Constable was temporarily deployed in the office of Superintendent of Police, Sangli without any recommendation of PEB. It is in that context, the Tribunal held that, such deployment amounts to transfer and being not in consonance of the provisions of Section 22N, the O.A. was allowed. Whereas, in the present case, there is compliance of law, and therefore, this authority is of no assistance to the Applicant.

14. At this juncture, it would apposite to refer the Judgment of Hon'ble Bombay High Court in **2008 (2) Mh.L.J. 640 (Shri V.V. Gadekar, Deputy Engineer Vs. MHADA)** wherein the Hon'ble High Court held as follows :

*“Ordinarily, orders of transfer are made in the exercise of administrative authority to meet the exigencies of service and in public interest. How the Administration has to run its affairs is not a matter which squarely falls in the judicial domain. Unless the orders of transfer were in conflict with Rules and were made for ulterior motives or in patent arbitrary exercise of powers, the Court would decline to interfere in such matter. The transfer could be due to exigencies of service or due to administrative reasons. The Petitioners in the present case have failed to demonstrate as to how the order of transfer has been passed for collateral purposes or is a patent arbitrary exercise of power.”*

15. Needless to mention that the Court should not deal with the transfer order as an appellate authority and it is for the administration to look into the requirement of the situation and Court or Tribunal cannot substitute its own decision in the matter of transfer where there is no malafide or violation of express provisions of law. Suffice to say, except for strong and convincing reasons, the transfer order need not be interfered with.

16. For the aforesaid reasons, I have no hesitation to sum-up that the challenge to the impugned order is devoid of merit and O.A. deserves to be dismissed. Hence, the following order.

### **ORDER**

The Original Application is hereby dismissed with no order as to costs.

Sd/-  
**(A.P. KURHEKAR)**  
Member-J

Mumbai  
Date : 08.02.2019  
Dictation taken by :  
S.K. Wamanse.