

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**O.A.NO. 470/2017 WITH O.A.NO. 491/2017**

**01. ORIGINAL APPLICATION NO. 470 OF 2017**

**DISTRICT: - AHMEDNAGAR.**

**Shailesh S/o. Uttamrao Gomsale,**  
Age – 32 years Occu. Govt. service,  
R/o : at present room No. 370,  
Block No. 27, Police Head Quarter,  
Ahmednagar, Dist. Ahmednagar

.. APPLICANT

**V E R S U S**

**The Superintendent of Police,**  
Ahmednagar, Dist. Ahmednagar.

.. RESPONDENT

**W I T H**

**02. ORIGINAL APPLICATION NO. 491 OF 2017  
[TRANSFER]**

**DISTRICT: - AHMEDNAGAR.**

**Santosh S/o. Uttamrao Gomsale,**  
Age – 27 years Occu. Govt. service,  
R/o : at sham Apartment, Flat No. 104,  
Gaikwada Mala,  
Ahmednagar, Dist. Ahmednagar

.. APPLICANT.

**V E R S U S**

**The Superintendent of Police,**  
Ahmednagar, Dist. Ahmednagar.

.. RESPONDENT

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**APPEARANCE :** Shri A.D. Gadekar – learned Advocate  
for the applicant in O.A. No. 470/17.

- : Shri V.R. Bhumkar, learned Presenting Officer for the respondent in O.A. No. 470/17.
- : Shri S.M. Kamble, learned Advocate holding for Shri S.S. Salve, learned Advocate for the applicant in O.A. No. 491/2017.
- : Shri S.K. Shirse, learned Presenting Officer for the respondent in O.A. No. 491/2017.

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**CORAM** : **HON'BLE SHRI B.P. PATIL,  
MEMBER (J)**

**DATE** : **22<sup>ND</sup> DECEMBER, 2017.**

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**ORDER**

1. By filing the present Original Applications, the applicants have challenged the transfer order dated 31<sup>st</sup> May, 2017 issued by the respondent, by which they have been transferred from Local Crime Branch, Ahmednagar to Karjat Police Station & Belwandi Police Station respectively.

2. Since the issue involved in both the OAs is identical and similar, the same are decided by this common order.

3. The applicant in O.A. No. 470/2017 viz. Shailesh S/o. Uttamrao Gomsale entered the Government service as Police Constable as per the order dated 24.5.2010, while the applicant in O.A. No. 491/2017 viz. Santosh S/o. Uttamrao Gomsale entered the Government service as a Police Constable as per the order dated 17.11.2008. After completion of successful training the applicants have been posted as Police Constable in different Police Stations in Ahmednagar district. Lastly, by an order dted 24.4.2015 and 22.11.2015 they have been transferred to Local Crime Branch, Ahmednagar and accordingly, they joined their duties at LCB Ahmednagar and since then they are working there till the date of issuance of impugned transfer order.

4. It is their contention that they have not completed their normal tenure of 5 years as Police Constabulary in Local Crime Branch, Ahmednagar. Their performances are outstanding and they have received several rewards, but all of a sudden the respondent issued the transfer order dated 31.5.2017; thereby transferring the applicant

in O.A. No. 470/2017 to Karjat Police Station and applicant in O.A. No. 491/2017 to Belwandi Police Station. The orders were not served on them, but they have been relieved from the present posting on 13.6.2017 & 14.6.2017 respectively with a direction to join new posting on the basis of the impugned transfer order dated 31.5.2017. It is their contention that the transfer order has been issued on the ground that there was default on the part of the applicants, but in fact, they have not committed any default while discharging their duties. Therefore, the impugned transfer order dated 31.5.2017 is illegal. It is their contention that on 24.6.2017 they filed the representations before the respondent contending that their parents are suffering from illness and they are taking treatment and there is no fit person to look after them and, therefore, they prayed to cancel their transfer orders.

5. It is the contention of the applicants that the impugned transfer order issued by the respondent is against the provisions of the Maharashtra Police Act and, therefore, it requires to be quashed. Therefore, they

prayed to allow the present Original Applications and set aside the impugned transfer orders.

6. The respondent has filed affidavit in reply and resisted the contentions of the applicant. It is his contention that the transfer of the applicants is not regular transfer, but it is effected due to default of the applicants. It is his contention that the applicants committed serious misconduct of not obeying the orders of superior, failure to remain present on duty, not maintaining secrecy and supplying the confidential information to the anti-social group and giving threats to the senior officers to file false complaint against them. It is, therefore, his contention that the Police Inspector of Local Crime Branch sent report of the applicants to him on 25.05.2017 stating that the applicants were not following the orders of the superiors and they used to remain absent on duty and pressurize the superiors by threatening them to file false complaints against them. On the basis of the said report, the proposals for transfer of the applicants have been placed before the Police

Establishment Board, from Local Crime Branch. The Police Establishment Board considered the report received from the A.P.I. and P.I. of the Local Crime Branch and considering the seriousness of the allegation against the applicants decided to transfer the applicants from Local Crime Branch and accordingly the impugned transfer orders have been issued in view of the provisions of the Maharashtra Police Act. It is his contention that the applicants have been transferred on administrative ground and their transfer is exceptional case. It is his contention that the transfer order was issued by following the provisions of Maharashtra Police Act and there is no illegality in the order and, therefore, he prayed to reject the present Original Applications.

7. The applicant has filed rejoinder and contended that the transfer has been made by the respondent to accommodate other Police employees and it was preplanned transfer order. It is their contention that no enquiry has been conducted in respect of the allegations made against them, but P.I. of Local Crime Branch had

conducted so called enquiry behind their back. It is their contention that the impugned order has been issued with mala fide intention. Therefore, they prayed to quash the transfer order.

8. I have heard Shri A.D. Gadekar – learned Advocate for the applicant in O.A. No. 470/17 and Shri V.R. Bhumkar, learned Presenting Officer for the respondent in O.A. No. 470/17 AND Shri S.M. Kamble, learned Advocate holding for Shri S.S. Salve, learned Advocate for the applicant in O.A. No. 491/2017 and Shri S.K. Shirse, learned Presenting Officer for the respondent in O.A. No. 491/2017. I have perused the applications, affidavit, affidavit in reply filed by the respondent. I have also perused the documents placed on record by both the sides.

9. Admittedly, the applicant in O.A. No. 470/2017 viz. Shailesh S/o. Uttamrao Gomsale joined the service in the Police Force as Police Constable as per the order dated 24.5.2010, while the applicant in O.A. No. 491/2017 viz. Santosh S/o. Uttamrao Gomsale joined the service in the

Police Force as a Police Constable in view of the order dated 17.11.2008. Admittedly, after completion of successful training, the applicants have been posted as Police Constable in different Police Stations in Ahmednagar district. Admittedly, by orders dated 24.4.2015 and 22.11.2015 they have been transferred to Local Crime Branch, Ahmednagar and accordingly, they joined their duties at LCB Ahmednagar and since then they are working there till the date of issuance of impugned transfer order. Admittedly, they have not completed their normal tenure of 5 years as provided under Section 22N (1) of the Maharashtra Police Act and they were not due for transfer. Admittedly, the impugned order is midterm and mid-tenure transfer order. Admittedly, both the applicants have been relieved in view of the order issued by the respondent on 13.7.2017.

10. Learned Advocate for the applicant has submitted that both the applicants were not due for transfer, but they have been transferred from Local Crime Branch in order to accommodate to other Police Constables namely



Dattatraya V. Gavane and Ravindra A. Kardile, who were previously serving at Police Station Shrirampur under the control of P.I. Shri Pawar. The P.I. has been transferred to Local Crime Branch, Ahmednagar from Shrirampur w.e.f. 26.3.20017. After his transfer at the instance of Shri Pawar, Police Constable viz. Dattatraya V. Gavane and Ravindra A. Kardile have been deputed to L.C.B., Ahmednagar. Shri Pawar was interested to keep those employees under his control. Therefore, both the employees have been transferred to LCB, Ahmednagar by an order dated 31.5.2017. He has submitted that to accommodate the said Police Constables the transfers of the applicants have been effected and they have shunted from L.C.B., Ahmednagar. They have submitted that the applicants have rendered blotless service and their performances were outstanding. They have further submitted that Shri Pawar, P.I. prepared the false report regarding the complaints regarding the misbehavior of the applicants and submitted false report to the respondent and on the basis of the same report transfers of the applicant have been effected, which is preplanned. They

have submitted that the transfer orders are in contravention of the provisions of the Maharashtra Police Act, and therefore, the same are illegal on this count. Therefore, they have prayed to quash the impugned transfer order by allowing the present Original Applications.

11. Learned Presenting Officer for the respondents has submitted that there were several complaints of misbehavior of the applicants. They were not obeying the orders of senior officers and they were giving threats to the superior officers to involve them in false criminal cases. Because of the behaviour of the applicants the discipline in Police force was at stake and, therefore, the A.P.I. and P.I. of L.C.B., Ahmednagar made report to the respondent in that regard. He has submitted that on the basis of report submitted by P.I. of L.C.B. dated 25.5.2017, respondent No. 2 placed the proposal for transfer of the applicants before the Police Establishment Board at district level. He has submitted that meeting of the Police Establishment Board has been held on 31.5.2017. The

report of the P.I. of L.C.B. has been considered. Thereafter, the board decided to transfer the applicants from LCB considering their misbehavior. Their acts were of such a nature that it would malign the images of the Police Force in the public at large. Therefore, the Board had decided to transfer the applicant and accordingly the respondent has issued transfer order. He has submitted that all these things have been mentioned in the minutes of the meeting dated 31.5.2017 of the Police Establishment Board, Ahmednagar. He has submitted that the applicants have been transferred in view of the provisions of Section 22N (2) of the Maharashtra Police Act in public interest and on account of administrative exigencies and the reasons have been recorded to that effect. He has submitted that there is no illegality in the impugned order of transfer and, therefore, he prayed to reject the Original Application.

12. I have gone through the documents on record. The applicants are brothers inter se. On perusal of the documents produced by the respondent, it reveals that the

applicants are serving in L.C.B. since the year 2015. On 19.5.2017 the A.P.I., L.C.B., Ahmednagar, made report to the P.I., L.C.B. about the misbehavior and misconduct of the applicants stating that the applicants were not obeying the orders of superior authorities and they were causing hurdle in the work of other employees while taking action against the illegal activities going in the city. He has also stated that the applicants used to give threat to the superior officers to involve them in false criminal case. On the basis of the said report the P.I., L.C.B. namely Shri Pawar submitted his report to the respondent and requested to make transfer of the applicants from L.C.B. to maintain discipline in the Police Force. On receiving the report, the respondent sent a proposal for transfers of the applicants as an exceptional case in the public interest and on administrative exigency before the Police Establishment Board duly constituted by him. The said proposal was considered by the Police Establishment Board in its meeting held on 31.5.2017.

13. The minutes of the meeting of the Police Establishment Board dated 31.5.2017 is placed on record in O.A. No. 470/2017. On perusal of the said, it reveals that the Members of the board considered the report sent by the P.I. minutely and found that there were serious allegations of misbehavior against the applicants. Their behaviour amounts indiscipline in the disciplinary force like Police Force and, therefore, they decided to transfer the applicants before completion of their normal tenure of posting and accordingly, they resolved in the meeting held on 31.5.2017. On the basis of the said decision of the Police Establishment Board, the respondent issued the impugned order dated 31.5.2017 transferring the applicants from LCB. The Police Establishment Board had effected transfer of the applicants on administrative ground and in the public interest. In view of the provisions of Section 22N (2), the Competent Transferring Authority i.e. Police Establishment Board at district level is empowered to make midterm transfer of the Police Constables in public interest and on account of administrative exigency. The instant cases of the

applicants squarely cover under the said provisions. There is no irregularity or illegality in the impugned transfer orders. The applicants are serving in a disciplined force i.e. the Police Force. It is expected that they should not misbehave. But because of the conduct and behaviour of the applicants the entire discipline in the Police Force in Ahmednagar district was in danger. It's image would have been maligned in case the applicants were kept in LCB. Therefore, in the public interest and on account of administrative exigencies the Police Establishment Board decided to transfer them from L.C.B., Ahmednagar. Since the transfer of the applicants had been made on administrative grounds in the public interest after following due process of law, no interference at the hands of the Tribunal is called for in it. There is no merit in the present Original Applications. Consequently, the present Original Applications deserve to be dismissed.

14. In view of the discussion in the foregoing paragraphs, both the original applications stand dismissed without any order as to costs.

**MEMBER (J)**

O.A.NOs.470 & 491-2017(SB)-HDD-2017-transfer