

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 673 OF 2017

DISTRICT: - AURANGABAD.

Shri Walmik S/o Rangnath Dane,

Age : - 53 years, Occu: Service,

R/o. Sillegaon, Tq. Gangapur,

District : Aurangabad.

.. APPLICANT.

V E R S U S

1. The State of Maharashtra,
(Through its Principal Secretary),
Home Department,
Mantralaya, Mummbai-32.

2. The Superintendent of Police,
Aurangabad (Gra)
Dist: Aurangabad.

3. The Reserved Police Inspector,
Police Headquarter, Aurangabad,
Dist. Aurangabad.

.. RESPONDENTS

APPEARANCE : Shri Amol B. Chalak Patil – learned
Advocate for the applicant.

: Mrs. Priya R. Bharaswadkar –
learned Presenting Officer for
respondents.

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

DATE : **6TH OCTOBER, 2018.**

ORDER

1. By filing the present Original Application, the applicant is challenging the impugned transfer order dated 14.8.2017 issued by respondent No. 2, the Superintendent of Police, Aurangabad (Gra), Dist. Aurangabad, transferring him from Police Station Sillegaon, Tq. Gangapur, Dist. Aurangabad to Police Headquarter, Aurangabad.

2. In the year 2015, the applicant was serving as Police Head Constable in Police Station, Devgaon Rangari, Tq. Kannad, Dist. Aurangabad. He was transferred to Sillegaon Police Station, Tq. Gangapur, Dist. Aurangabad, by transfer order dated 25.4.2015 on administrative ground. He joined his new posting at Sillegaon on 28.04.2015. When he was serving at Sillegaon he was promoted as Assistant Police Sub-Inspector vide order dated 20.6.2017 and since then he was serving as Assistant Police Sub-Inspector at Sillegaon. It is his further contention that he has completed only 2 & ½ years at Sillegaon and he has not completed his normal tenure of posting at Sillegaon. According to him, before

completion of normal tenure of posting at Sillegaon he came to be transferred from Sillegaon Police Station to Police Headquarter at Aurangabad. He was not due for transfer, but the respondent No. 2 issued the impugned order dated 14.8.2017 transferring him from Sillegaon Police Station to Police Headquarter, Aurangabad. It is contention of the applicant that it is a mid-tenure and midterm transfer. It is contention of the applicant that respondent No. 2 has not followed the provisions of Section 22N of the Maharashtra Police Act while effecting his transfer. Therefore, it is in contravention of the provisions of the Maharashtra Police Act. It is his further contention that he has been transferred on the basis of report submitted by Shri Khopade (API) at Sillegaon Police Station. It is his contention that Shri Khopade (API) has grudge against him as he has not supported his illegal activities. Therefore, false report has been made against him by Shri Khopade (API). It is his contention that the impugned order has been issued with malice. It is his further contention that his aged and ailing parents, wife and his son are residing at Sillegaon and he has to take

care of them, but respondent No. 2 has not considered the said aspect and issued the impugned order of transfer, which is illegal. Therefore, he approached this Tribunal by filing the present Original Application and prayed to quash and set aside the impugned order of transfer.

3. Respondent Nos. 1 to 3 resisted the contentions of the applicant by filing their affidavit in reply. They have not disputed the fact that the applicant was serving as Assistant Police Sub-Inspector at Sillegaon Police Station at the time of issuance of the impugned order. It is their contention that the impugned order has been issued in view of the provisions of Section 22N by following the due procedure. It is their contention that Police Establishment Board at district level has decided to transfer the applicant as there were several complaints against him and on the basis of the decision of the Police Establishment Board respondent No. 2 has issued the impugned order. It is their contention that there were several complaints against the applicant and in order to maintain law and order situation, the impugned transfer order has been issued. It is their contention that there is no illegality in

transferring the applicant. Therefore, they prayed to dismiss the present Original Application.

4. I have heard Shri Amol B. Chalak Patil, learned Advocate for the applicant and Mrs. Priya R. Bharaswadkar, learned Presenting Officer for the respondents. I have perused application, affidavit, affidavit in reply filed by respondent Nos. 1 to 3. I have also perused the documents placed on record by both the parties.

5. Admittedly, the applicant was serving as Police Head Constable in the year 2015 in Police Station, Devgaon Rangari, Tq. Kannad, Dist. Aurangabad. By the order dated 25.4.2015 he was transferred to Sillegaon Police Station, Tq. Gangapur, Dist. Aurangabad, from Devgaon Rangari on administrative ground. Pursuant to the said transfer order he joined Sillegaon Police Station on 28.04.2015. When he was serving at Sillegaon Police Station he was promoted as Assistant Police Sub-Inspector vide order dated 20.6.2017 and since then he was serving at Sillegaon only. There is no dispute about

the fact that Shri Khopade (API) of Sillegaon Police Station has submitted report against the applicant regarding his misconduct and, therefore, the applicant came to be transferred by the impugned transfer order dated 14.8.2017.

6. Learned Advocate for the applicant has submitted that the applicant has not participated in the illegal activities of Shri Khopade (API) of Sillegaon Police Station and he had taken a note in that regard in the diary on 10.8.2017. Therefore, Shri Khopade (API) has grudge against him. He has submitted that since the applicant has not participated in the illegal activities of Shri Khopade (API), Shri Khopade made false report against the applicant with his superior authorities. He has further submitted that the respondent No. 2 without making any enquiry in the complaint against the applicant and without giving him an opportunity of hearing issued the impugned order of transfer. He has submitted that the impugned order is in the nature of punishment. He has further submitted that the respondent No. 2 has not followed the due procedure while issuing impugned order.

He issued the order without recommendation of the Police Establishment Board. He has further submitted that the applicant has not completed his normal tenure at Sillegaon Police Station and he has been transferred in the midst of the tenure. He has submitted that the transfer is midterm and mid-tenure and, therefore, it is illegal. In support of his submissions he has placed reliance on the observations made by the Hon'ble Supreme Court in the case of **SOMESH TIWARI VS. UNION OF INDIA AND OTHERS reported in AIR 2009 SUPREME COURT 1399.**

7. Learned Presenting Officer has submitted that the applicant was involved in the illegal activities. He was helping the criminals and, therefore, Shri Khopade (API) / In-charge Police Officer of the Police Station Sillegaon, made report against him about his illegal activities on 10.8.2017. Respondent No. 2 has placed the said report before the Police Establishment Board at the district level. Police Establishment Board held the meeting on 11.8.2017, and after considering allegations against the applicant and his conduct, decided to transfer him from

Police Station Sillegaon to Police Headquarter. He has submitted that the said order has been issued to maintain discipline in the Police Force and it is in accordance with the provisions of Section 22N of the Maharashtra Police Act. He has submitted that there is no illegality in the said order and, therefore, he justified the impugned order and prayed to dismiss the present Original Application.

8. Admittedly, the applicant has no completed his normal tenure of posting at Sillegaon Police Station. Section 22N (1) provides that the Competent Authority provided under the said provision can make general transfers of the Police personnel on completion of normal tenure of their posting. Provision under Section 22N (1) provides that the State Government may transfer Police Personnel prior to completion of their normal tenure in the situation mentioned in clauses (a) to (e). Sub-section (2) of Section 22N empowers the competent authority to make midterm transfer of the Police personnel in exceptional cases in the public interest and on account of administrative exigencies. As per the said provision, the Police Establishment Board at district level is a Competent

Transferring Authority for transfers of the Police personnel up to the rank of Police Inspector within the district.

9. On perusal of the record, it reveals that Shri Khopade (API) of Sillegaon Police Station made report dated 10.8.2017 with the respondent No. 2 regarding the misconduct of the applicant. It is alleged that the applicant has assisted the offenders directly or indirectly to flee. The said report submitted by Shri Khopade has been placed before the Police Establishment Board at district level in the meeting held on 11.8.2017. The Board has considered the report and found that behaviour of the applicant was against the discipline of the Police force. They found that the applicant was involved in the corrupt practices. Not only this, but the applicant was involved in pressurizing In-charge officers by adopting the illegal mode. Not only this, but they found that he had given threat to commit suicide. Therefore, in these circumstances, Police Establishment Board has thought it proper to transfer the applicant in order to maintain law and order situation and on account of administrative exigencies and in the public interest and, therefore,

decided to transfer him from Sillegaon Police Station to Police Headquarter at Aurangabad. On the basis of the decision of Police Establishment Board, the respondent No. 2 issued the impugned order dated 14.8.2017. Considering the said facts, in my opinion, the impugned order has been issued by the respondents by following the provisions of Section 22N (2) of the Maharashtra Police Act. The impugned order has been issued in the public interest and on account of administrative exigencies. The exceptional case has been made out for transfer of the applicant. There is no violation of the provisions of Section 22N while issuing the impugned order. The applicant is serving in the disciplined force like Police Force, but, his behaviour is not befitted to the Police Officer and, therefore, the Police Establishment Board at district level has taken a decision to transfer him. Therefore, I do not find any illegality in the impugned order. There is no violation of the provisions of Section 22N of the Maharashtra Police Act. Therefore, no interference in the impugned order is called for. There is no merit in the

present Original Application. Consequently, it deserves to be dismissed.

10. In view of the discussion in the above paragraphs, the present Original Application stands dismissed without any order as to costs.

PLACE : AURANGABAD
DATE : 6TH OCTOBER, 2018

(B.P. PATIL)
MEMBER (J)

O.A.NO.596-2017(SB)-HDD-2018-
compassionate appointment