

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.37 OF 2022**

**(Subject:-Transfer)**

**DISTRICT: - Parbhani.**

Vasundhara W/o. Vitthal Borgaonkar )  
Age : 53 years, Occu. Service as P.I. )  
R/o. C/o. Police Station Gangakhed, )  
Tq. Gangakhed, Dist. Parbhani, )  
Mob. 8208404359 )..**APPLICANT**

**V E R S U S**

1. **The Secretary,** )  
Home Department Government of )  
Maharashtra Mantralaya, Mumbai. )
2. **The Director General of Police,** )  
Maharashtra State, Mumbai. )  
Shahid Bhagatsingh Marg, )  
Kulaba Mumbai. )
3. **The Superintendent of Police,** )  
Parbhani, Dist. Parbhani. )
4. **The Sub Divisional Police Officer,** )  
Gangakhed, Ta. Gangakhed, )  
Dist. Parbhani. )
5. Sunil s/o Kishan Mane, )  
Age: Major, Occu: Service (A.P.I.) , )  
R/o. C/o. Police Station Gangakhed, )  
Tq. Gangakhed, Dist. Parbhani. )..**RESPONDENTS**

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**APPEARANCE** : Shri D.T. Devane, learned Advocate for  
the applicant.

: Shri N.U. Yadav, learned Presenting  
Officer for the respondents.  
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**CORAM** : **SHRI V.D. DONGRE, MEMBER (J)**  
**DATE** : **23.11.2022**  
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**ORDER**

1. By invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, this Original Application is filed seeking challenge to the impugned order of transfer of the applicant dated 24.12.2021 (Annex. 'A-2') issued by the respondent No.3 i.e. the Superintendent of Police, Parbhani, whereby the applicant has been temporarily transferred from Gangakhed Police Station to Police Control Room, Parbhani until further orders in view of default report received against him and he would attend the administrative work on that post.

2. The facts in brief giving rise to this Original Application can be stated as follows:-

(i) The applicant came to be appointed as Police Sub-Inspector in the year 1995. She was promoted as Assistant Police Inspector in the year 2009 and lastly in the year 2014, she came to be promoted as Police Inspector.

(ii) In the month of November 2020, the applicant was transferred from Police Station Selu to Police Station Gangakhed as per oral order of the respondent No.3. Accordingly she joined at Police Station Gangakhed on 14.11.2020. Thereafter, the respondent No.3 issued regular transfer order dated 05.12.2020 (Annex. 'A-1') transferring her from Police Station Selu to Police Station Gangakhed. Since then, the applicant was performing her duties as Police Inspector at Police Station Gangakhed. However, all of a sudden by impugned order dated 24.12.2021 (Annex. 'A-2'), the respondent No.3 transferred the applicant without any reason from Police Station Gangakhed to Police Control Room, Parbhani until further orders giving reason of default report. In view of the same, it is mid-term and mid-tenure transfer order.

(iii) On the same day i.e. on 24.12.2021 (Annex. 'A-3'), the respondent No.3 issued another transfer order transferring Assistant Police Inspector Shri Gulab Tukaram Batewad from Police Station Gangakhed to Police Station Chudawa as In-charge of Police Station Chudawa and Assistant Police Inspector Shri Sunil Kishan Mane is transferred from Police Station Daithana to Police Station Gangakhed as In-charge of

Police Station Gangakhed. The applicant was directed to hand over charge of her post of P.I., Police Station Gangakhed to API Shri Gulab Tukaram Betewad. However, the said API Gulab Tukaram Betewad by another transfer order issued on the same day is transferred as In-charge of Police Station, Chudawa. There is no separate order of giving charge of her post to API Sunil Kishan Mane, who on the same day is transferred as In-charge of Police Station, Gangakhed. Hence, the applicant was not able to hand over charge of her post.

(iv) It is contended that while the applicant was working at Police Station, Gangakhed there was interference in the investigation of various crimes registered at Police Station, Gangakhed by S.D.P.O. Shri Shrenik Lodha (I.P.S). The applicant being lady was given discriminatory treatment. In view of that the applicant made detailed representation dated 03.01.2021 (Annex. 'A-4') to the respondent No.2 i.e. Director General of Police, Mumbai ventilating her grievances about interference in work by the said S.D.P.O. The applicant has filed documentary evidence regarding interference of S.D.P.O. in the investigation of cases and her work which are at Annex. 'A-5' collectively.

(v) In fact the applicant was performing her duties faithfully and sincerely and even during Covid-19 pandemic situation, she has worked honestly and devotedly. The applicant is not aware of any default report made against her. Assistant Police Inspector Shri Sunil Kishan Mane who is transferred in place of applicant at Police Station Gangakhed as In-charge was not due for transfer. In view of the same, it is clear that the applicant's transfer is without any reason and with prejudice. Hence, the impugned transfer order of the applicant dated 24.12.2021 (Annex. 'A-2') is liable to be quashed and set aside.

(vi) Moreover, another impugned transfer order dated 24.12.2021 (Annex. 'A-3') transferring API Sunil Kishan Mane in place of applicant is also not sustainable in the eyes of law and is liable to be set aside.

3. Affidavit in reply is filed on behalf of the respondent No.3 by one Jayant Meena, thereby he denied adverse contention raised in the Original Application.

(i) It is specifically contended that the transfer order of the applicant dated 24.12.2021 (Annex. 'A-2') and another transfer order of respondent No.5 dated 24.12.2021 (Annex.

'A-3') are issued on administrative grounds. In spite of transfer order of the applicant, the applicant had not joined her duties at Police Control Room, Parbhani. The respondent No.5 is transferred at Police Station Gangakhed in view of transfer of API Gulab Takaram Bachewad from Police Station Gangakhed to Police Station Chudawa.

(ii) It is admitted that IPS Officer, Shri Shrenik Lodha joined the department and was posted as S.D.P.O. at Gangakhed on 21.09.2021. However, the allegations made by the applicant against the said S.D.P.O. Shrenik Lodha are afterthought. In fact the applicant was not discharging her duties properly and as such in the supervisory capacity S.D.P.O. has taken some corrective steps and gave instructions to the application. In so many cases, the applicant investigated the crime improperly.

(iii) In view of that, this respondent directed S.D.P.O., Parbhani City by order dated July, 2021 (Exh. 'R-5') to conduct preliminary enquiry against the applicant. The said S.D.P.O., Parbhani conducted preliminary enquiry. During the said preliminary enquiry, he recorded the statements of witnesses and collected the documents and submitted default report dated 23.02.2022 (Exh. 'R-11'). The said default report

reveals dereliction of duties on the part of the applicant. In view of the same, on administrative ground, the applicant has been transferred to discharge administrative duties at Police Control Room, Parbhani by shifting her from Police Station Gangakhed. It is in accordance with law. In view of the same, the Original Application is devoid of merits and liable to be dismissed.

4. The applicant filed affidavit in rejoinder denying adverse contentions raised in the affidavit in reply.

5. I have heard at length the arguments advanced by Shri D.T. Devane, learned Advocate for the applicant on one hand and Shri N.U. Yadav, learned Presenting Officer for the respondent on other hand.

6. Upon perusal of the facts and documents on record, it is evident that the applicant is working in the cadre of Police Inspector. By impugned order dated 24.12.2021 (Annex. 'A-2'), the applicant has been posted at Police Control Room, Parbhani on administrative ground in view of alleged default report and for doing administrative work. For that purpose, she is transferred from Police Station, Gangakhed. The applicant was working at Police Station, Gangakhed as Police

Inspector from 14.11.2020. The impugned order dated 24.12.2021 (Annex. 'A-2') states that she has been posted accordingly at Police Control Room, Parbhani until further orders. In view of the same, the specific period or any eventuality is not mentioned. Hence, it has to be treated as transfer order as contemplated under Section 22N of Maharashtra Police Act. The applicant is so transferred within the period of about thirteen months.

7. Section 22N (1) (c) of Maharashtra Police Act, provides normal tenure of Police Sub-Inspector, Assistant Police Inspector and Police Inspector as follows:-

**“22N. Normal tenure of Police Personnel, and Competent Authority.**

[1] Police Officers in the police force shall have a normal tenure as mentioned below, subject to the promotion or superannuation:-

(a) ... ..

(b) ... ..

(c) For Police Officers of the rank of Police Sub-Inspector, Assistant Police Inspector and Police Inspector a normal tenure shall be of two years at a Police Station or Branch, four years in a District and eight years in a Range, however, for the Local Crime Branch and Special Branch in a District and the Crime Branch and Special Branch in a Commissionerate, a normal tenure shall be of three years;”



8. The applicant was working on the post of Police Inspector at police station Gangakhed since 14.11.2020. In view of the same, her normal tenure would be of two years. The applicant is transferred within the period of thirteen months and mid-term in the month of December 2021. Hence, it is mid-tenure as well as mid-term order. In view of the same, such transfer would be governed by proviso of Sub Section (1) of Section 22N and Sub Section (2) of Section 22N of Maharashtra Police Act which is as follows:-

**“22N. Normal tenure at Police Personnel, and Competent Authority**

(1) Police Officers in the police force shall have a normal tenure as mentioned below, subject to the promotion or superannuation:-

(a) for Police Personnel of and above the rank of Deputy Superintendent of Police or Assistant Commissioner of Police a normal tenure shall be of two years at one place of posting;

(b) for Police Constabulary a normal tenure shall be of five years at one place of posting;

(c) for Police Officers of the rank of Police Sub-Inspector, Assistant Police Inspector and Police Inspector a normal tenure shall be of two years at a Police Station or Branch, four years in a District and eight years in a Range, however, for the Local Crime Branch and Special Branch in a District and the Crime Branch and Special Branch in a Commissionerate, a normal tenure shall be of three years;

(d) for Police Officers of the rank of Police Sub-Inspector, Assistant Police Inspector and Police Inspector a normal tenure shall be of six years at Commissionerates other than Mumbai, and eight years at Mumbai Commissionerate;

(e) for Police Officers of the rank of Police Sub-Inspector, Assistant Police Inspector and Police Inspector in Specialized Agencies a normal tenure shall be of three years.

The Competent Authority for the general transfer shall be as follows, namely:-

Police Personnel	Competent Authority
(a) Officers of the Indian Police Service	Chief Minister;
(b) Maharashtra Police Service Officers of and above the rank of Deputy Superintendent of Police.	Home Minister;
(c) Officers up to Police Inspector	(a) Police Establishment Board No.2; (b) Police Establishment Boards at Range Level, (c) Police Establishment Boards at Commissionerate Level (d) Police Establishment Boards at District Level (e) Police Establishment Boards at the Level of Specialized Agency];

Provided that, the State Government may transfer any Police Personnel prior to the completion of his normal tenure, if,-

- (a) disciplinary proceedings are instituted or contemplated against the Police personner; or
- (b) the Police Personnel is convicted by a court of law; or
- (c) there are allegations of corruption against the Police Personnel; or

(d) the Police Personnel is otherwise in incapacitated from discharging his responsibility; or

(e) the Police Personnel is guilty of dereliction of duty.

“(2) In addition to the grounds mentioned in sub-section (1), in exceptional cases, in public interest and on account of administrative exigencies, the Competent Authority shall make mid-term transfer of any Police Personnel of the Police Force.”

[Explanation.- For the purposes of this sub-section, the expression “Competent Authority” shall mean:-

Police Personnel	Competent Authority
(a) Officers of the Indian Police Service	Chief Minister;
(b) Maharashtra Police Service Officers of and above the rank of Deputy Superintendent of Police.	Home Minister;
(c) Police Personnel up to the rank of Police Inspector for transfer out of the respective Range or Commissionerate or Specialized Agency.	Police Establishment Board No.2;
(d) Police Personnel up to the rank of Police Inspector for transfer within the respective Range, Commissionerate or Specialized Agency.	Police Establishment Boards at the Level of Range, Commissionerate or Specialized Agency, as the case may be;
(e) Police Personnel up to the rank of Police Inspector for transfer within the District.	Police Establishment Board at district Level:

Provided that, in case of any serious complaint, irregularity, law and other problem the highest Competent Authority can make the transfer of any Police Personnel without any recommendation of the concerned Police Establishment Board.]

Perusal of explanation to Sub Section (2) as above would show that the Competent Authority for mid-term transfer for the rank of Police Inspector within district is Police Establishment Board at District level. In this background, if the impugned transfer order dated 24.12.2021 (Annex. 'A-2') is examined, it is seen that there is no mention of any order of Police Establishment Board at District level or otherwise.

9. In view of above, the impugned transfer order shows that it is issued by respondent No.3 i.e. the Superintendent of Police, Parbhani without concurrence of requisite of Police Establishment Board at District level. Nothing is produced on record to show that the transfer order of the applicant was placed before the said Police Establishment Board. What is pleaded on behalf of the respondents vehemently is that there is default report against the applicant and hence the applicant is being transferred. However, when there is no concurrence of Police Establishment Board about the alleged default report, it cannot be said that the impugned transfer order is issued in compliance of criteria laid down in Sub Section 2 of Section 22N of Maharashtra Police Act. Moreover, the impugned transfer order is not issued by the

competent transferring authority. Hence, even if the respondents have sought to exhibit that the applicant has committed certain alleged illegality or irregularity in investigation of crimes, that would not be sufficient to make out case for transfer unless those grounds are placed before the requisite Police Establishment Board. In view of the same, the impugned transfer order of the applicant is not sustainable in the eyes of law.

10. So far as the impugned transfer order of the respondent No.5 dated 24.12.2021 (Annex. 'A-3') is concerned, by the said order, the respondent No.5 has been transferred in place of applicant as In-charge of Police Station, Gangakhed. Once the impugned transfer order of the applicant is held to be unsustainable, the impugned transfer order of the respondent No.5 also would not survive. I, therefore proceed to pass the following order:-

### **ORDER**

The Original Application is allowed in following terms:-

- (A) The impugned transfer order of the applicant dated 24.12.2021 (Annex. 'A-2') and consequential transfer order of the respondent No.5 dated

24.12.2021 (Annex. 'A-3'), both issued by respondent No.3 i.e. Superintendent of Police, Parbhani are quashed and set aside.

(B) No order as to costs.

**(V.D. DONGRE)**  
**MEMBER (J)**

**Place:-Aurangabad**  
**Date : 23.11.2022**  
SAS O.A.37/2022