

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.376/2023, 377/2023
AND 378/2023**

DISTRICT:- AHMEDNAGAR

1. O.A.NO.376 OF 2023

Tushar Vilas Gaikwad,
Age : 34 years, Occu. : Service as Constable,
R/o : Shrirampur, Tq. Shrirampur,
Dist. Ahmednagar. ...APPLICANT

VERSUS

Superintendent of Police,
Ahmednagar. ...RESPONDENT

WITH

2. O.A.NO.377 OF 2023

Abasaheb Sonaji Gore,
Age : 38 years, Occu. : Service as Constable,
R/o : Shrirampur, Tq. Shrirampur,
Dist. Ahmednagar. ...APPLICANT

VERSUS

Superintendent of Police,
Ahmednagar. ...RESPONDENT

WITH

3. O.A.NO.378 OF 2023

Amol Vasant Gaikwad,
Age : 33 years, Occu. : Service as Constable,
R/o : Shrirampur, Tq. Shrirampur,
Dist. Ahmednagar. ...APPLICANT

VERSUS

Superintendent of Police,
Ahmednagar. ...RESPONDENT

APPEARANCE :Shri Jiwan Patil, Counsel for
Applicants in all the O.As.

:Shri B.S.Deokar, Presenting Officer
for the respondent in all the O.As.

CORAM : JUSTICE P.R.BORA, VICE CHAIRMAN

Reserved on : 30-08-2023.

Pronounced on : 12-09-2023.

ORDER

1. Heard Shri Jiwan Patil, learned Counsel for applicants in all the O.As. and Shri B.S.Deokar, learned Presenting Officer appearing for common respondent in all the O.As.

2. Since in all these matters challenge is raised to order dated 29-04-2023 issued by Superintendent of Police, Ahmednagar, who is sole respondent in all the O.As. and the grounds of objections raised against the said order are identical, I have heard all these matters together and deem it appropriate to decide the same by this common order.

3. All the three applicants are Police Constables. Applicant Tushar Vilas Gaikwad (O.A.No.376/2023) and Amol Vasant Gaikwad (O.A.No.378/2023) have been transferred from Shrirampur City Police Station to Shirdi Police Station, whereas applicant Abasaheb Sonaji Gore (O.A.No.377/2023) has been transferred from Shrirampur

Taluka Police Station to Shevgaon Police Station. It is the grievance of the applicants that they have been transferred at the places for which they have not given any option. It is the case of the applicants that as required, they have given 3 options for their ensuing transfers confirming that posts for which they have given their options were vacant, however, instead of giving them posting at any one of the said posts, all of them have been transferred at the places for which no option was given by them.

4. It is the common contention of the applicants that their transfers have been made at inconvenient places. Applicants have alleged that vide the impugned order the sole respondent i.e. Superintendent of Police, Ahmednagar (S.P.) has made transfers of about 925 Police personnel and while making such transfers the said respondent has applied different norms for different police officers. It is contended that some are retained on their requests whereas requests of many other police personnel for their posting at a particular police station have been considered on the grounds of illness of the parents or on the basis of other family problems. According to applicants, their problems have not been considered by the respondent and,

therefore, the applicants have a feeling that they have been discriminated. For the aforesaid reasons, the applicants have prayed for setting aside the impugned orders.

5. On behalf of the respondent, separate affidavits in reply have been filed by one Kamalakar Jayawant Jadhav, Deputy Superintendent of Police, Ahmednagar in all the O.As. Similar contentions are raised in the affidavits in reply while opposing the contentions raised and the prayers made in the O.As. It is the contention of the respondent that the applicants have been transferred by following due process of law and having regard to the administrative need. Respondent has raised a specific plea that while carrying out the process of transfers the applicants were very well present and in their presence postings were given to all of them. It is contended that, subsequently, the applicants have raised objections which are factually incorrect. It is further contended that the police personnel are bound to suffer periodical transfers and every police officer cannot be given posting of his choice. However, the police personnel are bound to obey the orders and to report at the places where they are transferred. It has also been contended that when the

entire process was carried out in presence of the applicants, they have no right to make a grievance that without hearing them the transfer orders are issued. It is further contended that the District Police Establishment Board has recommended the transfers of the applicants at the respective places. It has also been said that the applicants who have failed to join at the transferred places in the given period are liable for disciplinary action. Respondent has further averred that the reasons assigned by the applicants in their respective O.As. are not true, correct and legal. On all above grounds, the respondent has prayed for dismissal of the O.As.

6. I have heard learned Counsel appearing for applicants and learned P.O. representing the sole respondent in all the O.As. I have also gone through the documents placed on record by the parties. Applicants have not disputed the fact that in the end of March, 2023 options were called for and were accordingly submitted by the applicants. Every applicant had given 3 options. Further, there appears no dispute about the fact that the applicants have been transferred at the places which are other than the places for which they have given options.

Though the applicants have alleged that no opportunity of hearing was given to them before making their transfers, in the affidavit in reply filed on behalf of the respondent, it has been specifically contended that the process of transfer was carried out impartially and transparently and that the applicants were present during the transfer process and as per the availability and choice, as well as taking into consideration the administrative need, suitable postings are given to the applicants. The fact as has been stated in the affidavits in reply filed in all these matters that when the process for transfers was being in progress, the applicants were present and in their presence the transfers were issued as per the availability and choice.

7. Learned P.O. has tendered across the bar the minutes of the meeting held on 25-04-2023 and 26-04-2023 wherein the decision in regard to the annual general transfers was taken. As is revealing from the said minutes, District Police Establishment Board had held meeting on 25-05-2023 and 26-04-2023 wherein all the 3 members of the said Board were present. It is further stated that the Police Personnel who were due for transfer were required to personally remain before the Police

Establishment Board, and accordingly, majority of the police personnel appeared before the Board and after having heard them the Police Establishment Board has recommended the transfers.

8. Grievance raised by the applicants is on two grounds; first that they have been given posting at the places for which they have not given any option, and the other that they were not given any opportunity of hearing. Insofar as the objection as about opportunity of hearing is concerned, it does not appear to me that the said objection would sustain. In the affidavits in reply filed on behalf of the respondent a specific plea has been taken that the police personnel due for transfer were called upon to remain present before the District Police Establishment Board and accordingly the applicants were also present and in their presence the process of transfer was carried out. As has been submitted by the learned P.O., it was not possible for the respondent to give posting to each and every Police Officer due for transfer at the place of his choice. It has been further argued that maximum care has been taken to see that no serious inconvenience is caused to any police personnel. The applicants have not denied or

disputed the fact stated in the affidavits in reply filed on behalf of the respondent that the process of transfer was carried out in their presence. None of the applicants has filed rejoinder to the affidavit in reply filed by the respondents. As such, there appears no substance in the objection raised by the applicants that opportunity of hearing was not given to them.

9. It is true that the applicants have been transferred at the places for which they had not given any option. However, it need not be stated that no right is vested with any Government employee, may be a police personnel, to seek transfer at a particular place. The flexibility has to be given to the transferring authorities to take decision in the matters of transfer. Transfer of a police personnel is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service. No Government can function if the Government servants insist for their retention or insist for their transfer at a particular place. The orders of transfers are made in exercise of administrative authority to meet the exigencies of service and in public interest. Law is well settled that how the administration has to run its affairs is

not a matter which would fall in the judicial domain. The scope of judicial review in respect of transfer of the Government employee is limited as the Tribunal cannot substitute its own decision in the matter of transfers. No interference can be caused in the order of transfer unless there is gross violation of the transfer guidelines or the order of transfer suffers from *mala fide*.

10. After having considered the facts and circumstances involved in the present matters, none of the applicants has made out any such case. The respondent has followed the guidelines for transfer and also the procedure laid down for making such transfers. It does not appear that any grave prejudice is likely to be caused to any of these applicants because of their transfers vide the impugned order at the respective places. The applicants have alleged that many of the officers are retained at existing places on their requests and many of the officers are given posting of their choice and only the applicants are given discriminative treatment. I do not find any substance in the allegations so made for the reason that no specific allegations are made in any of these OAs.

11. Moreover, it may not be possible for the transferring authority to please each and every employee who is due for transfer. In the present matters though the applicants are not given posting of their choice, there appears no malice in not giving such posting to them. Only because posts are still vacant at Shrirampur Police Station may not be a ground to seek their posting on the said vacant posts. Ultimately, it is administrative authority which has to take decision according to its administrative need and no Government employee can insist for his transfer at a particular place. It does not appear to me that there is any ulterior motive or any arbitrary exercise of power by transferring authority in making transfers of all these applicants at the respective places. The transfers made, also cannot be said to be in violation of the guidelines issued by the Government. I, therefore, see no reason for causing any interference in the impugned order. The Original Applications, therefore, deserve to be dismissed and are accordingly dismissed however, without any order as to costs.

VICE CHAIRMAN

Place : Aurangabad

Date : 12.09.2023.