

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 369 of 2018 (SB)**

Sanjay Santlal Gupta,  
Aged about 48 years, Occ. Service,  
R/o Shanti Nagar, Mudliyar Layout,  
Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Additional Chief Secretary,  
Mantralaya, Mumbai-32.
- 2) Commissioner of Police,  
Nagpur having its office at Civil Lines,  
Nagpur.

**Respondents**

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**Shri S.P. Palshikar, Advocate for the applicant.**

**Shri M.I. Khan, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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**JUDGMENT**

**(Delivered on this 8<sup>th</sup> day of October,2018)**

Heard Shri S.P. Palshikar, learned counsel for the  
applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. The applicant is a Head Constable, has been transferred from Police Station, Wadi to Head Quarters at Nagpur vide impugned order dated 24/05/2018. It is the case of the applicant that he has not completed his normal tenure at Wadi since he has joined at Wadi in the year,2015 and as per the Maharashtra Police Act, the normal tenure of Head Constable at particular Police Station is five years and therefore the impugned order be quashed and set aside.

3. The respondent no.2 has filed reply-affidavit and justified the transfer order. It is stated that the applicant was asked to perform certain duties and was directed to perform duties in four Bits which comes under Wadi Police Station, but he used to work as per his own whims and he used to avoid the orders of Superior. The serious complaints were filed against the applicant and on the basis of such complaints his transfer was recommended. It is submitted that the decision of transfer of the applicant has been taken by the Police Establishment Board and the said order has been issued in consequence of the provisions of law regarding transfer by the Competent Authority. It is stated that the applicant has made highly objectionable allegations against the senior officials of the Police Department and has not

only tarnished the image of the department, but has rudely shaken faith of the employees in the Department and public at large. The applicant has also filed rejoinder denying the allegations of irresponsible behaviour or dereliction of duties. He also denied that he has disobeyed the orders of the Superior. It is stated that though it is alleged that serious complaint was received against the applicant, no show cause notice has been issued to the applicant and no opportunity was given. It is stated that the impugned order of transfer has been passed with malafide intention.

4. Perusal of the impugned order dated 24/05/2018 shows that the same has been passed by the Police Establishment Board as per provisions of Section 22N (one) (1) and (B) of the Maharashtra Police Act. The Section 22N (1) states about the normal tenure of police personnel and the competent authority. Admittedly, the normal tenure in case of Head Constable is five years and the Competent Authority to transfer the Head Constable during District is the Police Establishment Board at district level. Section 22J-1 deals with the Police Establishment Board at district level which is headed by the District Superintendent of Police as Chairperson and Senior-most

Additional Superintendent of Police as Member and the Deputy Superintendent of Police (Head Quarter) as Member- Secretary. The Section 22J (2) states about the functions of the Police Establishment Board at district level. Since the applicant has been transferred within district, Section 22J-2 (a) is applicable to the present case which reads as under :-

*“22J-2 (a) The Board shall decide all transfers, postings of Police Personnel to the rank of Police Inspector within the District Police Force.”*

5. The aforesaid provision clearly shows that the Board at district level has been authorised to decide all transfers and postings of the police personnel up to the rank of Police Inspector in the district and therefore the Authority of the respondents cannot be challenged in this case, since the transfer has been effected on the recommendation of the Police Establishment Board.

6. In para no.1 of the impugned order it is stated as under:-

^ i syhl vk; Ørky; kojhy vkLFki uk eMGkus l okLærs vl k fu.kz ?kryk vkgs dh] i syhl LVsku Lrjkojhy eatj l d; kcGkuq kj 100 VDdstkxk Hkj.; kpk iz Ru dj.k tskd#u i syhl

Mr. J. K. Jadhav, Dy. Commr., Nagpur, in his report dated 15.12.2017, has observed that the order of transfer of the applicant is not in accordance with the rules and regulations. He has also mentioned that the applicant was not following the orders of the superior and was working in the Bit which was not assigned to him without permission. His conduct was found to be suspicious and therefore he recommended the transfer of the applicant. The Deputy Commissioner of Police Nagpur City also recommended the transfer of the applicant in order to avoid further complications. The copies of recommendation in this regard are placed on record at P.B. page nos.43 to 50 (both inclusive). The said recommendation seems to have been accepted by the Competent Board and then it was recommended to the higher authority and in view thereof, the applicant has been transferred. However, in the transfer order it has been specifically mentioned that the decision was taken in the interest of administration in order to maintain law

7. From the aforesaid observation, it seems that the order has been issued on administrative convenience though there was complaint against the applicant.

8. From the documents placed on record by the learned P.O., it seems that one Shri N.P. Pawar, Senior Police Inspector at Police Station, Wadi has requested the Competent Authority to transfer the applicant since he was not following the orders of the Superior and was working in the Bit which was not assigned to him without permission. His conduct was found to be suspicious and therefore he recommended the transfer of the applicant. The Deputy Commissioner of Police Nagpur City also recommended the transfer of the applicant in order to avoid further complications. The copies of recommendation in this regard are placed on record at P.B. page nos.43 to 50 (both inclusive). The said recommendation seems to have been accepted by the Competent Board and then it was recommended to the higher authority and in view thereof, the applicant has been transferred. However, in the transfer order it has been specifically mentioned that the decision was taken in the interest of administration in order to maintain law

and order situation and so as to provide sufficient staff for detecting crimes. Thus the applicant has not been transferred on complaint, but because of the administrative convenience.

9. The learned P.O. has placed on record the Judgment delivered by this Tribunal in a group of matters in O.A.Nos. 181/2018, 182/2018, 183/2018 and 184/2018 delivered on 24/07/2018 and also in Writ Petition No.6809/2017 by the Hon'ble High Court of Judicature at Bombay, Bench at Nagpur on 15/11/2017, whereby the order passed by this Tribunal was maintained by the Hon'ble High Court. The said order was also challenged by the then Petitioner before the Hon'ble Apex Court in Special Leave to Appeal (c) No. 33089/2017 passed on 08/12/2017. The learned P.O. also placed reliance on the Judgment in Writ Petition No.14200/2016 delivered by the Hon'ble High Court of Judicature at Bombay on 20/01/2017 in case of the **State of Maharashtra & Ors. Vs. Shri Siddharth Krushnarao Kasbe & Ors.**, wherein the view taken by this Tribunal that the transfers on administrative grounds which are not contrary to the provisions of Section 22N (C) or proviso thereof need not be interfered.

10. The Tribunal is not expected to go into the merits allegations made by the applicant against the respondent authorities. The applicant has made a vague allegation that his transfer is malafide. However, from the record it seems that the applicant was not following the orders of the Superior and because of his conduct, the Superior Authority requested the Competent Board to transfer the applicant. The said recommendation has been accepted by the Board while issuing the order of transfer instead of mentioning about the conduct of the applicant, the Competent Authority considered the administrative convenience and therefore it is not a fit case to interfere in the decision taken by the Competent Authority. There is nothing wrong in transferring employees / officers before completion of tenure, if he is creating hurdle in the administration of justice or his transfer is necessary to maintain law and order situation or for administrative discipline.

11. The applicant has been transferred from Wadi to Head Quarters at Nagpur. Wadi though is out of limit of Nagpur Municipal Corporation, it is just adjacent to Nagpur and is almost part of Nagpur City and no inconvenience will be caused to the applicant, if he is directed to serve at Nagpur Head Quarters. I,

therefore, do not find any reason to interfere in the impugned order of transfer. Hence, the following order :-

**ORDER**

The O.A. stands dismissed with no order as to costs.

**Dated :- 08/10/2018.**

**(J.D. Kulkarni)  
Vice-Chairman (J).**

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