

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 53 of 2023 (S.B.)**

Arun S/o Shankarrao Bante,
Aged 57 yrs. Occ. Service,
R/o, P.N 6, Bidipeth, Nagpur.

Applicant.

Versus

1. State of Maharashtra, through the Secretary,
Department of Home, Hutatma Rajguru Chowk,
Mantralaya, Mumbai-32.
2. Commissioner of Police, Nagpur, Civil lines, Nagpur.
3. Dy. Commissioner of police Zone 4, Ajni, Civil Lines, Nagpur.
4. Police Inspector, Wathoda Police Station, Nagpur.

Respondents.

Shri K.J. Rawandhe, Advocate for the applicant.
Shri S.A. Sainis, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 06/11/2023.

J U D G M E N T

Heard Shri K.J. Rawandhe, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondents.

2. The learned counsel for applicant has submitted that the applicant was transferred to Wathoda Police Station in Nagpur City in the year 2019. The applicant is transferred by impugned order dated 25/08/2022. It is the submission of applicant that he is wrongly transferred on the report of his Superior Officer and submitted that the

impugned transfer is against the provisions of the Maharashtra Police Act. Hence, the impugned transfer order is liable to be quashed and set aside.

3. As per the submission of respondents, the applicant has committed misconduct. Para-2 of the reply, resp.nos.2&3 is reproduced below (P-63) –

“(2) It is submitted that Applicant was serving as Police Hawaldar/2529 at Wathoda Police Station, Nagpur City since 23/09/2019. Applicant was assigned the duty of investigating the application received by police station Wathoda regarding property fraud. That the contention of the applicant that the superiors in the police station Wathoda, Nagpur made baseless allegations against the present applicant and taking the advantage of the superiority, made the transfer of the applicant. For disproving the same and denying the contention of the applicant, it is submitted that on 11/05/2022 Senior Police Inspector sent Default Report of Applicant to Deputy Commissioner of Police, Zone-4, Nagpur city recommending his transfer from police station Wathoda stating the reasons of misconduct and pendency of cases for investigation. Thereafter on 25/05/2022 Deputy Commissioner of Police, Zone-4 issued directions to Assistant Commissioner of Police, Ajni, and Nagpur City for Preliminary Enquiry against the applicant. The Assistant Commissioner of Police submitted his report on 15/07/2022. As per the Preliminary Enquiry, in Crime No. 72/2021 which was registered under sections 420, 406, 468, 470, 471, 34 of IPC the applicant had investigated the said crime and written case diary no.02/21 dated 07/03/2021 to case diary no.55/22 dated 09/02/2022. The applicant as per the P.E. had tried senior officers to mislead and registered this crime in the name of Mangala Gantale (field owner) and not as per the application of applicant Sadhana Borkar and others. The applicant did not arrest the

accused and the seized documents were not sent to the Handwriting expert. Applicant kept the matter pending without any explanation and no substantial investigation thereafter. The copy of Preliminary Enquiry Report dated 15/07/2022 is annexed herewith and marked as ANNEXURE-R-1.”

4. During the course of submission, the learned P.O. has submitted that the preliminary inquiry was conducted against the applicant and it was found that the applicant had committed misconduct, therefore, he is transferred. In support of his submission pointed out the decision of this Tribunal in O.A.194/2023, decided on 05/07/2023. In para-3, this Tribunal (Member (J)) has held that the respondents are at liberty to transfer the police personnel under Section 22 N (1) & (2) of the Maharashtra Police Act, if the misconduct is alleged against the said police personnel.

5. The learned counsel for the applicant has pointed out the Judgment of the Principal Bench M.A.T., Mumbai in O.A.42/2021, dated 6/12/2021. The fact in the cited Judgment in O.A.194/2023, dated 5/7/2023 is similar to the fact in the case in hand. The applicant has committed misconduct and therefore he is transferred from Wathoda Police Station to Police Head Quarters, i.e., in the Nagpur City itself. Hence, the said impugned transfer order cannot be said to be illegal. Hence, the following order –

ORDER

The O.A. is dismissed. No order as to costs.

Dated :- 06/11/2023.

**(Justice M.G. Giratkar)
Vice Chairman.**

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 06/11/2023.