

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 681/ 2023 with
CIVIL APPLICATION Nos. 372 & 475/2023 (S.B.)

Kishor Sudam Wankhede,
Aged about 45 years,
Occupation : Service (Assistant Police Inspector),
R/o Pagati Nagar, Kaulkhed,
Akola Tah. & Dist. Akola.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Additional Chief Secretary,
Department of Home,
Mantralaya, Mumbai- 32.
- 2) The Superintendent of Police,
Akola, Tah. & Dist. Akola.
- 3) Shri Chandrashekhhar Panjabrao Kadu,
Aged about adult,
Occ. Service, R/o Dakshata Nagar,
Police Colony, Akola Tah. & Dist. Akola.
- 4) Smt. Vaishali Muley,
Aged about adult,
Occupation Service,
R/o o/o Police Station Civil Lines Akola,
Tah. & Dist. Akola.

Respondents

Shri S.N.Gaikwad, Id. Advocate for the applicant.

Shri A.M.Khadatkar, Id. P.O. for the respondents 1 to 3.

Shri S.P.Palshikar, Id. counsel for the respondent no. 4.

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGEMENT**Judgment is reserved on 18th Sep., 2023****Judgment is pronounced on 18th Sep., 2023**

Heard Shri S.N.Gaikwad, ld. counsel for the applicant, Shri A.M.Khadatkar, ld. P.O. for the respondents 1 to 3 and Shri S.P.Palshikar, ld. counsel for the respondent no. 4.

2. The applicant holds the post of Assistant Police Inspector. By order dated 11.03.2022 the applicant was posted at M.I.D.C., Police Station, Akola, as Incharge of the Police Station. Order dated 11.03.2022 refers to order passed by this Tribunal in O.A. No. 612/2022. By the impugned order dated 30.06.2023 which is stated to have been passed on administrative ground, the applicant was transferred to Police Station, Akotfail. According to the applicant the impugned order is contrary to Section 22 N of the Maharashtra Police Act and hence it is liable to be set aside.

3. It is a matter of record that on 03.07.2023 interim order was passed by this Tribunal that the applicant, if he was not relieved by that time, he was not to be relieved till 14.07.2023.

4. On 14.07.2023 respondent no. 2 passed the following order:-

आदेश

उपरोक्त संदर्भ १ अन्वये पोनि चंद्रशेखर कडू नेमणुक पो.स्टे. सिटीकोतवाली यांची प्रशासकीय कारणास्तव पो.स्टे.एमआयडीसी येथे प्रभारी अधीकारी म्हणुन नेमणुक / बदली करण्यात आली होती.

सपोनि-किशोर सुदाम वानखडे यांनी बदली संदर्भात महाराष्ट्र प्रशासकीय न्यायाधीकरण खंडपीठ नागपुर येथे मुळ याचिका क्रमांक ६८१/२०२३ दाखल केल्याने संदर्भ क्रमांक ३ मध्ये दिलेल्या आदेशानुसार त्यांची पो.स्टे. अकोटफेल येथे दुय्यम अधीकारी म्हणुन करण्यात आलेल्या बदलीच्या आदेशाला स्थगिती देण्यात आल्याने पोनि-चंद्रशेखर कडू यांची पो.स्टे. एमआयडीसी प्रभारी अधीकारी म्हणुन करण्यात आलेले आदेश या आदेशाद्वारे रद्द करण्यात येत असुन त्यांची तात्पुरती नेमणुक पोलीस नियंत्रण कक्ष, अकोला येथे करण्यात येत आहे.

5. By order dated 24.07.2023 respondent no. 3 who was holding temporary charge at Police Station Akotfail was given full-fledged charge as Incharge of said Police Station and respondent no. 4, who holds the post of Police Inspector, was transferred from Civil Lines, Police Station, Akola to M.I.D.C., Police Station, Akola as Incharge, on request.

6. In these facts the applicant has impugned order dated 30.06.2023 (A-3) on the ground that it was mid-term and hence not in conformity with Section 22 N of the Act. He has further impugned the order dated 24.07.2023 (A-5) on the ground that it is malafide.

7. Stand of respondent no. 2 is as follows:-

It is pertinent to note here that, the applicant was posted at Police Station MIDC by order dated 11-3-2022. The answering respondent transferred the applicant as per the power vested in him under section

22(N)(2)(1) of Maharashtra Police Act on administrative ground & in public interest and also by the committee constituted under section 22J(1) of the Maharashtra Police Act, thus the said transfer order is just and proper and is not in violation of any Act or provisions.

8. To his reply respondent no. 2 has attached order dated 04.07.2023 (A-A-2) which reads as under:-

आदेश

उपरोक्त संदर्भ १ अन्वये पोनि-चंद्रशेखर कडू नेमणुक पो.स्टे. सिटीकोतवाली यांची प्रशासकीय कारणास्तव पो.स्टे.एमआयडीसी येथे प्रभारी अधिकारी म्हणून नेमणुक/बदली करण्यात आली होती.

सपोनि-किशोर सुदाम वानखडे यांनी बदली संदर्भात महाराष्ट्र प्रशासकीय न्यायाधीकरण खंडपीठ नागपुर येथे मुळ याचीका क्रमांक ६८१/२०२३ दाखल केल्याने संदर्भ क्रमांक ३ मध्ये दिलेल्या आदेशानुसार त्यांची पो.स्टे. अकोटफैल येथे दुय्यम अधिकारी म्हणून करण्यात आलेल्या बदलीच्या आदेशाला स्थगिती देण्यात आल्याने पोनि-चंद्रशेखर कडू यांची पो.स्टे. एमआयडीसी प्रभारी अधिकारी म्हणून करण्यात आलेले आदेश या आदेशाद्वारे रद्द करण्यात येत असून त्यांची तात्पुरती नेमणूक पोलीस नियंत्रण कक्ष, अकोला येथे करण्यात येत आहे.

9. Stand of respondent no. 4 is that the applicant was posted as Incharge of Police Station though he was holding the post of Assistant Police Inspector, this was contrary to Circular of Home Department, Government of Maharashtra dated 04.03.2014 (A-R-5-2), Civil Lines, Akola Police Station was divided and M.I.D.C. Police Station was established where one Police Inspector was to be posted and this was done by transferring and posting respondent no. 4 at M.I.D.C. Police Station, Akola. It was reiterated that the applicant is holding the post of Assistant Police Inspector and respondent no. 4 holds the post of Police

Inspector. Correctness of these submissions made on behalf of the respondent no. 4 is borne out by record.

10. Respondent no. 4 has placed on record order dated 28.07.2023 (A-R-5-5) which states:-

तसेच पो.स्टे. एम. आय.डी.सी जिल्हा अकोला येथे पोलीस निरीक्षक यांचे पद रिक्त असल्याने या कार्यालयाचे आदेश जा.क्र. पोअअ/पशा-३/३३-अ/पोनि/पोउपनि-प्रशासकीय कारणास्तव बदल्या/८१३२/ २०२३, दिनांक २४.०७.२०२३ अन्वये, पोलीस निरीक्षक श्रीमती, वैशाली भारत मुळे नेमणुक पो.स्टे. सिव्हील लाईन जिल्हा, अकोला यांची विनंतीवरून पो.स्टे.एम.आय.डी.सी येथे रिक्त असलेल्या पदी पोलीस निरीक्षक यांना प्रभारी पो.स्टे. अधिकारी म्हणून नेमणुक करण्यात आलेली आहे. व प्रशासकीय न्यायाधिकरण नागपुर खंडपीठाचे सपोनि- किशोर वानखडे यांचे बदलीबाबत स्थगितीचे आदेश असल्याने त्यांना पुढील आदेशापावेतो पो.स्टे.एम.आय.डी.सी जिल्हा, अकोला येथेच कार्यरत ठेवण्यात आले आहे.

11. It is not in dispute that the applicant holds the post of Assistant Police Inspector. He was posted at M.I.D.C. Police Station, Akola by order dated 28.10.2021 which stated:-

सहा. पोलीस निरीक्षक किशोर वानखडे, प्रभारी अधिकारी पो.स्टे. एम. आय. डि.सी, अकोला यांना प्रशासकीय कारणास्तव पुढील आदेशापर्यंत, पोलीस नियंत्रण कक्ष, अकोला येथे पुढील कर्तव्यार्थ संलग्न करण्यात येत आहे. त्यांनी तात्काळ पोलीस नियंत्रण कक्ष, अकोला येथे हजर होवून अनुपालन अहवाल सादर करावा.

This was followed by order dated 11.03.2022 (A-1) to which I have already referred.

12. It is also not in dispute that the impugned transfer of the applicant was recommended by the Police Establishment Board.

13. It was contended on behalf of the applicant that the impugned order did not spell out that it was an exceptional case and thus it did not conform to Section 22N(2) of the Act. This Section reads as under:-

(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:

14. The applicant was holding the post of Assistant Police Inspector. He was working as Incharge of M.I.D.C. Police Station, Akola. He was transferred to Akotfail by the impugned order and respondent no. 4 who holds the post of Police Inspector was posted as Incharge of M.I.D.C. Police Station, Akola where post of Police Inspector was to be filled. The impugned transfer of the applicant was recommended by P.E.B.. Taking into account aforementioned admitted facts it is clear that the impugned order is in conformity with Section 22 N of the Act. Hence, no interference is warranted. **O.A. is accordingly dismissed and C.As.**

are disposed of with no order as to costs.

**(Shri M.A.Lovekar)
Member (J)**

**Dated :-18/09/2023
aps**

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 18/09/2023.
and pronounced on

Uploaded on : 20/09/2023.