MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 194/2023(S.B.)

Shyam Chotelal Kanojiya,
Aged-55 years, Occ.-Service,
R/o Ayurvedic Layout, Opposite
Bollywood Centre Point, Plot No.26,
Nagpur.

Applicants.

Versus

1) State of Maharashtra,
through its Secretary,
Department of Home,
Mantralaya, Mumbai-32.

2) Commissioner of Police, Nagpur
Civil Lines, Nagpur.

3) Deputy Commissioner of Police,
Nagpur (Head Quarter), Civil Lines,
Nagpur.

Respondents

Shri R.V.Shiralkar, Ld. Counsel for the applicant.
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J).
Dated: - 5th July 2023.

JUDGMENT

Judgment is reserved on 28th June, 2023.

Judgment is pronounced on 5th July, 2023.

Heard Shri R.V.Shiralkar, learned counsel for the applicant and Shri V.A.Kulkarni, learned P.O. for the respondents.

2. Case of the applicant is as follows.

The applicant was holding the post of Assistant Sub-Inspector. By order dated 16.07.2021 he was transferred from Nandanvan Police Station to Hudkeshwar Police Station. By the impugned order dated 20.02.2023 (Annexure A-1) respondent no.3 transferred him from Hudkeshwar Police Station to Police Head Quarters, Nagpur. It was a mid-tenure transfer. It was punitive in nature. It was said to have been made on the basis of a complaint contents of which were not made known to the applicant. There was no administrative exigency to effect his transfer. The order was passed in breach of provisions of Section 22 of the Maharashtra Police Act (hereinafter referred to as "the Act"). For these reasons the impugned order deserves to be quashed and set aside.

3. Stand of respondents 2 and 3 is as follows. On 30.01.2023 one Rajani Patne and her son had been to Hudkeshwar Police Station. They wanted to lodge a report against one Ashok Chaple. Instead of taking the complaint and registering an F.I.R. since commission of cognizable offence was made out, the applicant tried to persuade the complainant

to settle the matter. Such conduct amounted to dereliction of duty and indiscipline. On the basis of the complaint (Annexure R-1) Police Establishment Board in its meeting dated 20.02.2023 (Annexure R-2), took the decision to transfer the applicant. The Board concluded-

तरी उपरोक्त प्रमाणे हुडकेश्वर पोलीस ठाणे येथे नेमणूकीस असलेले ग्रेड पोलीस उपनिरीक्षक/३४०२ श्याम छोटेलाल कनोजिया यांनी अर्जदार यांचे तक्रार अर्जावरती रितसर चौकशी करणे अभिप्रेत असताना ते न करता दोन्ही पक्षकार यांचेमध्ये मध्यस्थी करण्याचा अव्यावहारिक प्रयत्न केला यावरुन यामध्ये त्यांचा अप्रामाणिक हेतू स्पष्टपणे दिसून येत आहे. कोणत्याही प्राप्त प्रकरणामध्ये मध्यस्थी करणे हे तपास यंत्रणा /पोलीसांच्या कामाचा भाग नाही हे माहीत असताना किंबहूना याची पुर्णपणे जाणीव असताना सुध्दा नियमबाहय वर्तन केलेले आहे. तसेच अर्जदार यांना गैरअर्जदार पैसे देणार आहे किवा देणार नाही. त्यांचे पाठी लागू नका असे विसंगत पध्दतीने सांगून त्यांना मानसिक त्रासाला सामोरे जाण्यास भाग पडले. सबब ग्रेड पोलीस उप निरीक्षक/३४०२ श्याम छोटेलाल कनोजिया स्वःताचे फायदयाचा अप्रामाणिक हेतुने शिस्तप्रिय पोलीस खात्यास अभिप्रेत नसलेले बेजबाबदार व अशोभनीय वर्तन केलेचे निष्पन्न् होत आहे.

पोलीस उप आयुक्त, आर्थिक गुन्हे शाखा नागपूर शहर यांनी सदर विषयी विस्तृत सुचना दिलेले असल्याने दिनांक २०/०२/२०२३ रोजी आस्थापना मंडळाचे बैठकीत सदर पोलीस अंमलदार यांचे वर्तन पोलीस दलाच्या शिस्तीस अनुसरुन नसून बेशिस्तपणाचे असल्याचे दिसून आले. त्यामुळे यांची पो. स्टे. हुडकेश्वर, नागपूर शहर येथुन पोलीस मुख्यालय

नागपूर शहर येथे बदली करण्याचा निर्णय आस्थापना मंडळानी एक मताने घेतला आहे.

Thus, the impugned transfer was made as per Section 22N(1) and 22N(2) of the Act.

4. Proviso to Section 22N(1) & Section 22N(2) read as under-

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 Personnel; 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 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:

5. In his rejoinder the applicant has stated that there was no written complaint against him, in fact Ashok Chaple had come to the Police Station to lodge complaint against Rajani Patne, he, the applicant had

never made any attempt to settle the dispute, there were no special circumstances to effect his mid-tenure transfer and whatever material was presumably relied upon by the Board to recommend his transfer, was not supplied to him.

6. I have quoted the provision and referred to material on record. Complaint was in fact made against the applicant. The Board acted upon it. It did consider the material against the applicant and arrived at the decision to transfer him. The Board did have powers to take such decision. It was not arbitrarily used. For these reasons the impugned order does not call for interference. Hence, the O.A. is dismissed. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 05/07/2023
rsm.

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

Name of Steno	:	Raksha Shashikant Mankawde
Court Name	:	Court of Hon'ble Member (J) .
Judgment signed on and pronounced on	:	05/07/2023.