

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO. 939 OF 2016**

DISTRICT :MUMBAI

Shri Sunil Pundalik Kalgutkar)
Age – 54 Years,)
Working as Deputy Superintendent of)
Police (one step),)
Residing at B-203, Pratik Corner,)
Plot No.49, Sector – 8 ‘A’, Airoli,)
Navi Mumbai.)**...Applicant**

VERSUS

1. State of Maharashtra)
Through Chief Secretary,)
Mantralaya, Mumbai – 400 032.)

2. Additional Chief Secretary,)
Home Department,)
Mantralaya, Mumbai – 400 032.)

3. The Director General of Police,)
Maharashtra State,)
Shahid Bhagatsing Marg,)
Coolaba, Mumbai – 411 01.)

4. The Director General of Anti)
Corruption Bureau, Maharashtra State))
Mumbai, Sir Pochkhanwala Raod,)
Warli, Mumbai – 400 030.)**....Respondents**

Smt. Punam Mahajan, learned Advocate for the Applicant.

Shri K. B. Bhise, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal, Vice-Chairman

DATE : 13.01.2017

PER : Shri Rajiv Agarwal, Vice-Chairman

ORDER

1. Heard Smt. Punam Mahajan, learned Advocate for the Applicant and Shri K. B. Bhise, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant challenging his transfer from Anti Corruption Bureau (A.C.B.) to Ratnagiri by order dated 24.5.2016.

3. Learned Counsel for the Applicant argued that the Applicant was transferred to ACB, from Mumbai Police Commissionerate by order dated 28.5.2013. Initially he was posted as Raigad District Anti Corruption Bureau incharge on 11.6.2013. On 6.5.2016, he was posted to the ACB Head Quarters at Mumbai. The Applicant was relieved on 1.9.2016. Learned Counsel for the Applicant argued that the order dated 29.5.2016 states that the Applicant was transferred on the report of Unit Head, which makes it clear that he was

transferred as a punishment. The order also mentions that his was a mid tenure transfer (मुदतपूर्व बदल्या). Learned Counsel for the Applicant argued that the impugned transfer order has been passed in violation of Section 22 N(2) of the Maharashtra Police Act and is bad in law.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant was posted to A.C.B., Mumbai by order dated 28.5.2013. He actually worked at ACB, Mumbai from 7.6.2013 to 1.9.2016. He had completed his tenure in the specialized Agency viz. A.C.B. as per Section 22 N (1) (c) of the M.P.A. Learned P.O. contended that plain reading of impugned order dated 24.5.2016 does not indicate that it was issued due to any adverse report of the Unit Head against the Applicant. It is not a punitive order. Similar, it is a general transfer not a mid-term transfer, so, there is no question of Section 22 N (2) being applicable in this case.

5. I find that the Applicant has actually worked in ACB, Mumbai from 7.6.2013 to 1.9.2016, i.e. more than three years. He had completed almost three years on the date of the order of transfer viz. 24.5.2016. As such, his transfer cannot be termed as mid term transfer and provisions of Section 22 N(2) would not apply. On plain reading of order dated 24.5.2016, it cannot be said that it is a punitive order. Just because, it is mentioned in the order that the order is before completion of tenure, the fact, that

Applicant had completed his tenure cannot be ignored. I do not find that this is a fit case requiring judicial intervention.

6. Having regard to the aforesaid facts and circumstances of the case, this O.A. is dismissed with no order as to costs.

(RAJIV AGARWAL)
(VICE-CHAIRMAN)

Date : 13.01.2017

Place : Mumbai

Dictation taken by : SBA

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