

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 847 of 2017

Rajendra Vittal Bhandekar,
Aged about 47 years, Occ.-Service (Head Constable),
R/o Police Station Desaiganj,
Tah. Desaiganj & District :- Gadchiroli.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-32.
- 2) The Superintendent of Police,
Gadchiroli, Tah. & Dist. Gadchiroli.

Respondents

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

Shri M.I.Khan, Id. P.O. for the respondents.

WITH

ORIGINAL APPLICATION No. 848 of 2017

Homraj Baliram Khobragade,
Aged about 43 years, Occ.-Service (Head Naik),
R/o Police Station Desaiganj,
Tah. Desaiganj & District :- Gadchiroli.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-32.
- 2) The Superintendent of Police,
Gadchiroli, Tah. & Dist. Gadchiroli.

Respondents

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

Shri V.A.Kulkarni, Id. P.O. for the respondents.

WITH

ORIGINAL APPLICATION No. 849 of 2017

Ravindra Marotrao Kulmethe,
Aged about 51 years, Occ.-Service (Head Constable),
R/o Police Station Desaiganj,
Tah. Desaiganj & District :- Gadchiroli.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-32.
- 2) The Superintendent of Police,
Gadchiroli, Tah. & Dist. Gadchiroli.

Respondents

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

Shri A.M.Ghogre, the Id. P.O. for the respondents.

WITH

ORIGINAL APPLICATION No. 850 of 2017

Krishna Ramji Ghutke,
Aged about 38 years, Occ.-Service (Head Constable),
R/o Police Station Desaiganj,
Tah. Desaiganj & District :- Gadchiroli.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-32.
- 2) The Superintendent of Police,
Gadchiroli, Tah. & Dist. Gadchiroli.

Respondents

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

Shri P.N.Warjurkar, the Id. P.O. for the respondents.

WITH

ORIGINAL APPLICATION No. 851 of 2017

Manoj Tekaram Wagh,
Aged about 38 years, Occ.-Service (Police Naik),
R/o Police Station Desaiganj,
Tah. Desaiganj & District :- Gadchiroli.

Applicant.

Versus

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

- 2) The Superintendent of Police,
Gadchiroli, Tah. & Dist. Gadchiroli.

Respondents

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

Shri A.P.Potnis, the Id. P.O. for the respondents.

COMMON JUDGMENT

(Delivered on 22nd December, 2017)

Heard Shri S.N.Gaikwad, Id. counsel for the applicants and Shri M.I.Khan, the Id. P.O. for the respondents (in O.A.No. 847 of 2017) and Shri V.A.Kulkarni, the Id. P.O. for the respondents (in O.A.No. 848 of 2017) and Shri A.M.Ghogre, the Id. P.O. for the respondents (in O.A.No. 849 of 2017) and Shri P.N.Warjurkar, the Id. P.O. for the respondents (in O.A.No. 850 of 2017) and Shri A.P.Potnis, the Id. P.O. for the respondents (in O.A.No. 851 of 2017).

2. These O.As. are being disposed off by this common order. All the applicants have been transferred vide common order dated 27/10/2017, by the respondent no. 2 i.e. Superintendent of Police, Gadchiroli on the recommendation of Police Establishment Board. The name of the applicants, their places of postings and place of postings on transfer are as under:-

Application No.	Name of the Applicant	Place posting before transfer	Place posting after transfer	Reason for transfer
847/2017	Shri Rajendra Vittal Bhandekar	Police station Desaiganj	Police Sub Head Quarter, Pranhita	In the public interest
848/2017	Homraj Baliram Khobragade	Police station Desaiganj	Pomke Gatta (JA)	In the public interest
849/2017	Ravidra Marotrao Kulmethe	Police station Desaiganj	Police Sub Head Quarter, Pranhita	In the public interest
850/2017	Krishna Ramji Ghutke	Police station Desaiganj	Police Sub Head Quarter, Pranhita	In the public interest
851/2017	Manoj Tekaram Wagh	Police station Desaiganj	Pomke Kothi	In the public interest

3. The applicant Shri Rajendra Vittal Bhandekar was posted at Desaiganj vide order dated 31/05/2017 from Sub-Police Station Tekda Camp Brahmani, but vide impugned order dated 27/10/2017, he has been transferred to Pranhita within a span of 3 months. The applicant Homraj Baliram Khobragade was also transferred to Desaiganj vide order dated 31/05/2017 from Sub-Police Station Tekda Camp Brahmani and within 3 months vide impugned order dated 27/10/2017, he has been transferred to Pranhita. The applicant Ravindra Marotrao Kulmethe was transferred to Desaiganj on 19/05/2016 from Sub-Police Station

Jimal Gatta to Desaiganj Police Station and within a span of 1 year and 4 months he has been transferred to Pranhita vide order dated 27/10/2017. The applicant Krishna Ramji Ghutte was transferred to Desaiganj Police Station from Sub-Police Station Jimal Gatta vide order dated 31/05/2017 and within 1 year and 4 months he has been transferred to Pranhita vide impugned order dated 27/10/2017. The applicant Manoj Tekram Wagh was transferred to Desaiganj from Bomb Detect vide order dated 15/06/2016 and within a span of 1 year and 3 months he has been transferred to Pomke Kothi within a span of 1 year and 3 months. The Id. counsel for the applicants submits that the impugned order of transfer whereby all the applicants have been transferred from Desaiganj to various places, is mid-term and mid-tenure transfer. He submits that the said order has been issued as per the provisions of Section 22 (1)(1)(b) of the Maharashtra Police Act and such order is illegal. It is therefore, requested that the impugned order of transfer whereby all the 5 applicants have been transferred from Desaiganj to different places, be quashed and set aside and the applicants be allowed to work at Desaiganj, as they were working prior to their transfer.

4. In all the O.As., the respondent no. 2, i.e., Superintendent of Police, Gadchiroli has filed affidavit-in-reply and tried to justify the order of transfer. It is stated that an article was published in the local

newspaper "Deshonnati" on 04/10/2017, wherein it was stated that the Police have raided a gambling at Village Kurud, within the jurisdiction of Police Station, Desaiganj and seized a huge amount from the accused, but without taking legal action from those persons, set free those persons. In pursuance to the said item published in the local newspaper, the Sub-Divisional Police Officer, Desaiganj conducted an enquiry and it was transpired that the applicants along with four other policemen had gone to village Kurud on 23/09/2017. All the applicants were invited by Policemen Shri Krishna Ghutke, Head Constable, B.No.208 and had received information about them. The five villagers namely Vilas Singade, Manik Pardhi, Dinesh Thakare, Ravindra Raut and Sunil Thakare had gone to the house of Dakaram Pandurang Bharre. An amount of Rs. 15,000/- to Rs. 20,000/- thousands were also seized at the spot, but instead of arresting them, the applicants freed all the accused persons and accepted the amount.

5. According to the respondent no. 2, the Sub-Divisional Police Officer, Desaiganj submitted his report of enquiry and also recommended the transfer of the applicants in the public interest. The report was submitted on 06/10/2017, which was placed before the meeting of Police Established Board on 27/10/2017 and it was decided to transfer the applicants in the public interest.

6. The Id. counsel for the applicants tried to take me through the statements relied on by the Enquiry Officers in the enquiry held by the SDPO Desaiganj and submits that no incriminity evidence was found against the applicants. In my opinion, it is not necessary for this Tribunal to go through the Enquiry Report and merits of the enquiry conducted against the applicants. The fact remains that there was a news item published in the Newspaper, on the basis of which, preliminary enquiry was conducted and the SDPO Desaiganj submitted his report to the Police Establishment Board and the said report was considered by the Establishment Board. The Id. P.O. submits that Departmental Enquiry is being conducted against the applicants on the basis of such a report. The Id. counsel for the applicants submits that till today no chargesheet has been filed. It may be a fact that no chargesheet is filed till today, but the fact is that some preliminary enquiry was conducted by the SDPO Desaiganj against the applicants and it was observed that instead of arresting those accused persons while gaming, the applicants allowed the accused persons to go free and grab the amount which was seized. The Departmental Enquiry will be held in the matter in due course, but if the Establishment Board finds that the image of the Police Department has been lowered down and maligned because the news in local newspaper and for that purpose, the Establishment Board decided to transfer the applicants, it cannot be said to be illegal. There is nothing on

the record to show that the Establishment Board was prejudiced against the applicants or was having any ill will against the applicants.

7. The Id. counsel for the applicants submits that the order has been passed as per the provisions of Section 22N(1)(b) of the Maharashtra Police Act, but the grounds are not as such. In this regard, it is material to note that the section mentioned in the order might be wrong. As per the provisions of Section 22J-2, the functions of the Police Establishment Board at District Level are defined which are as under:-

22J-2. Functions of Police Establishment Board at District Level

The Police Establishment Board at District Level shall perform the following functions, namely:-

(a) The Board shall decide all transfers, postings of Police Personnel to the rank of Police Inspector within the District Police Force.

(b) The Board shall be authorised to make appropriate recommendations to the Police Establishment Board No. 2 regarding the postings and transfers out of the District.

Explanation:-For the purposes of this section, the expression "Police Personnel" means a Police Personnel to the rank of Police Inspector.

8. Perusal of the aforesaid provisions under Section 22J-2 clearly shows that the Establishment Board at District Level shall decide all transfers and postings of Police Personnel to the rank of Police Inspector within the District Police Force. All transfers include Annual General Transfer and also mid-term and mid-tenure transfer and also transfer for special reasons.

9. Considering the aforesaid aspects, if the Establishment Board finds it necessary to transfer the applicants because enquiry was conducted against them on the basis of preliminary investigation made

by the SDPO Desaiganj, such action cannot be said to be illegal, particularly if the Establishment Board finds it necessary to transfer the applicants in the public interest. In such circumstances, it is but natural to transfer the applicants irrespective of the fact whether they were due for transfer or not. I, therefore, do not find any illegality in the order of transfer of the applicants. Hence, the following order :-

ORDER

- 1) O.A. 847, 848, 849, 850 & 851 of 2017 stand dismissed.
- 2) No order as to costs.

Dated :- 22/12/2017

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

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