

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.181/2018.

(S.B.)

Milind Harishchandra Chavan,
Aged about 35 years,
Occ-Service,
R/o Waghoda Chowk,
Tukum Chandrapur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Addl. Chief Secretary,
Department of Home,
Mantralaya, Mumbai-32.
2. The Superintendent of Police,
Chandrapur.

Respondents

ORIGINAL APPLICATION NO.182/2018.

Vinod Baburam Yadav,
Aged about 35 years,
Occ-Service,
R/o Police Station Line, New Bldg.,
Type- 1-B, Qtr. No.002, Tukum Chandrapur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Addl. Chief Secretary,
Department of Home,
Mantralaya, Mumbai-32.
2. The Superintendent of Police,
Chandrapur.

Respondents

ORIGINAL APPLICATION NO.183/2018.

Jameerkhan Ahmedkhan Pathan,

Aged about 38 years,
Occ-Service,
R/o Police Line, Tukum Bldg. No.7,
Qtr. No.75, Chandrapur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Addl. Chief Secretary,
Department of Home,
Mantralaya, Mumbai-32.
2. The Superintendent of Police,
Chandrapur.

Respondents

ORIGINAL APPLICATION NO.184/2018.

Anand Damodhar Kharat,
Aged about 37 years,
Occ-Service,
R/o Nirman Nagar, Tukum,
Chandrapur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Addl. Chief Secretary,
Department of Home,
Mantralaya, Mumbai-32.
2. The Superintendent of Police,
Chandrapur.

Respondents

Shri S.P. Palshikar, the Ld. Advocate for the applicants.
Shri M.I. Khan, the Ld. P.O. for the respondents.

Coram:-Shri J.D. Kulkarni,
Vice-Chairman (J)

JUDGMENT

(Delivered on this 24th day of July 2018.)

Heard Shri S.P. Palshikar, the learned counsel for the applicant and Shri M.I. Khan, the learned P.O. for respondents.

2. The applicants in these O.As have challenged their transfer orders dated 12.12.2017 issued by Superintendent of Police, Chandrapur (R.2). The points involved in all these O.As are same. Details of the applicants as regards, O.A. number, their present places of posting and places of transfers are given as under:-

अ.क्र.	अधि./कर्मचारयाचे नाव	मूळ नेमणुकीचे ठिकाण	संलग्नचे ठिकाण	बदलीचे ठिकाण
१.	पोशी/८९६ मिलिंद चव्हाण	पो.स्टे.रामनगर	उपपोस्टे.भारी	पो.स्टे. टेकामान्डवा
२	पोशी/२४९ जमिरखान पठाण	पो.स्टे.रामनगर	----	पोलीस कॅम्प वणी
३	पोशी/१२२९ विनोद् यादव	पो.स्टे.रामनगर	----	पो.स्टे. पीत्तीगुडा
४	पोशी/११६५ आनंद खरात	पो.स्टे.रामनगर	----	पोस्टे.भारी

3. All the applicants are Police Constables working in Chandrapur district. It is stated that they were not due for transfer. But vide impugned order, they have been transferred. The said order is illegal, being mid-term and mid-tenure also. The Superintendent of Police, Chandrapur (R.2) files separate affidavit in reply in all these O.As and tried to justify the order. It is stated that confidential anonymous application was forwarded by the Anti

Corruption Bureau, Nagpur to the Superintendent of Police, Chandrapur (R.2) and in the said letter, it was specifically mentioned that the applicants were involved and connected with illegal liquor mafia and they were also involved in selling seized liquor. The Superintendent of Police, Chandrapur marked that complaint and the Additional Superintendent of Police, Chandrapur for necessary action. Allegations leveled against the applicants were very serious in nature and the preliminary enquiry was made and after due enquiry, it was found that prima facie, there was a truth in the allegations made in the application and that a full-fledged departmental enquiry was essential. It was, therefore, not possible to keep all the delinquents at their original place of posting i.e. at Chandrapur and it was expedient to transfer them elsewhere. The District Police Establishment Board met on 12.12.2017 and decided to initiate departmental enquiry against all the applicants. It was unanimously decided to transfer the applicants. In all 23 Police Officers including the applicants were transferred to uphold / maintain law and order situation in the district. It is further stated that by virtue of the provisions of Section 22J-2 of the Maharashtra Police Act, 1951, the District Police Establishment Board is empowered to decide all transfers and postings of police personnel upto the rank of Police

Inspector. Even though the normal tenure of Police Constable at one place of posting is five years as per Circular dated 25.9.2015 issued by the office of the Director General of Police, Mumbai and particularly considering point No.2.2, 6.3 and 3 of Ordinance. In case there is any serious complaint, irregularity, the seniormost competent authority without recommendation of the District Police Establishment Board can transfer any policeman at any time and, therefore, action taken by the respondents is in public interest.

4. The learned P.O. has placed on record two judgments in group of matters delivered by this Tribunal on 22nd December 2017 in O.A. Nos. 847, 848, 849, 850, 851 of 2017 and in O.A. No. 770 of 2016 decided on 7.10.2017. In both the matters, scope Section 22J-2 of the Maharashtra Police Act, 1951 has been considered and it has been observed that under Section 22J-2 of the Maharashtra Police Act, 1951, the District Police Establishment Board can decide all transfers and postings of police personnel upto the rank of Police Inspector within the district force and all transfers include the annual general transfers and also mid-term and mid-tenure transfers, so also transfers for special reasons. Section 22N of the Maharashtra Police Act, 1951 speaks about normal tenure of police personnel and the competent authority. It also states about

additional grounds in exceptional cases in public interest and on the ground of administrative exigency. As per Section 22 (2) of the Maharashtra Police Act, 1951 in addition to the grounds mentioned in sub-section (1) in exceptional cases, in public interest and on the ground of administrative exigency, the competent authority may make mid-term transfers of any police personnel of police force. The competent authority defined in the said section includes the Police Establishment Board at District level which is empowered to transfer the police personnel upto the rank of Police Inspector. In case of any serious complaint, irregularity, law and order problem, the highest competent authority can make transfer of any police personnel without any recommendation of the concerned the Police Establishment Board. The Police Establishment Board at District level is defined in Section 22J and (1) of Maharashtra Police Act, 1951 which includes following members:-

- (a) The Superintendent of Police-----Chairman.
- (b) The Seniormost Additional Superintendent of Police---Member.
- (c) Deputy Superintendent of Police (Headquarters) ---Member Secretary.

5. Thus, amongst the Police Establishment Board at District level, the Superintendent of Police is the highest competent authority and, therefore, in case of any exigency, it has every power

to transfer the police personnel upto the rank of Police Inspector in the district even without recommendation of the Police Establishment Board.

6. It is not disputed that all the applicants have not completed their normal tenure at their respective places and, therefore, the order which has been issued is mid-term and mid-tenure. The learned P.O. has placed on record the minutes of the meeting, which have been duly signed by a Member, Police Establishment Board at District level. It has been observed in the said minutes of the meeting that considering allegations against the applicants, it may not be in the interest of administration to continue the applicants at their respective places. It is further stated that their continuation at respective places may cause disharmony (असंतोष) and may create law and order problem and, therefore, the Board was of the opinion that the applicants may be transferred, though they were not due. Accordingly, 23 police personnel have been transferred including the applicants. The Police Establishment Board also considered the report of the preliminary enquiry against the applicants and considering the serious allegations against the applicants, it was decided to transfer them. The documents of confidential preliminary enquiry are also placed on record which is

alongwith minutes of the meeting. It is not necessary for this Tribunal to go into the details of that Enquiry Report. *Prima facie*, it seems that serious allegations were made against the applicants and in the preliminary enquiry, said allegations were found to be true and, therefore, in the interest of administration, Police Establishment Board and its higher authorities decided to transfer the applicants. I do not find any illegality in the said decision. As already stated, similar applications filed by the applicants' colleagues earlier, have already been dismissed, as may be seen from the judgment in group of O.A. Nos. 847/2017 and 770/2016. Considering all these aspects, I do not find any reason to interfere in the impugned order of transfer. Hence, I proceed to pass the following order:-

ORDER

The O.A. Nos. 181, 182, 183 and 184 of 2018 stand dismissed with no order as to costs.

(J.D.Kulkarni)
Vice-Chairman(J)
24.7.2018.

