

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 500/2016.

Gausiya Shadul Sheikh,
Aged about 34 years,
Occ- Police Constable,
Posted at H.Q., Yavatmal.
R/o Mulki, Post-Umbaraga (Court),
Tehsil Ahmadpur, Distt. Latur.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-440 001.
- 2) The Director General of Police (M.S.),
Mumbai.
- 3) The Superintendent of Police,
Yavatmal.
- 4) The Superintendent of Police,
Latur.
- 5) The Special Inspector General of Police,
Amravati Region, Amravati.

Respondents

ORIGINAL APPLICATION NO. 474/2016.

Gorakh Chandrasen H adule,
Aged about 40 years,
Occ- Police Constable (Ex-serviceman),
Posted at H.Q., Yavatmal.
R/o C/o S.B. Lahane, Tirupati Nagar,
Sant Kripa Niwas, Near Maruti Showroom,
Barshi Road, Beed.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-440 001.
- 2) The Director General of Police (M.S.),
Mumbai.
- 3) The Superintendent of Police,
Yavatmal.
- 4) The Superintendent of Police,
Beed.

Respondents

Shri P.V. Thakre, Advocate for the applicants.
Smt. S.V. Kolhe, P.O. for the respondents.

Coram:- Hon'ble Shri R.B. Malik, Member (J)

Dated: - 10th February 2017.

Oral order

These two Original Applications brought by two Police Constables seeking inter district transfer, on account of similarity of facts can safely be disposed of by this common judgment.

2. I have perused the record and proceedings and heard Shri P.V. Thakre, learned Advocate for the applicants and Smt. S.V. Kolhe, learned P.O. for the respondents.

3. Respondent No.1 is the State of Maharashtra in Home Department, the second respondent is the Director General of Police, third and fourth respondents are Superintendents of Police,

Yavatmal, Latur and Beed and fifth respondent is the Special Inspector General of Police, Amravati Region, Amravati.

4. There are rules framed on 16.6.2011 in exercise of powers under section 5 (b) of the Maharashtra Police Act, 1951 (as amended from time to time). Rule 11 thereof categorically provides that the Police Constables would not be transferred from the Unit where they have been appointed to, to any other Unit. This is the import of statutory rules. The applicants seek inter district transfers. I do not feel called upon to determine the truism or otherwise of the reasons for which they seek inter district transfers. I proceed on the assumption that the reasons do exist and in that sense genuine reasons are present. However, the issue is as to whether in the set of circumstances such as they are and in the light of the Rule 11 above referred to, any authority had any power to effect inter district transfers and the fact as to whether the order if any made thereon can be judicially scrutinized by this Tribunal. Mr. Thakre, learned Advocate for the applicants invites reference to a document at Annexure A-12 (P.57 of the P.B.) which is an order issued by the Director General of Police on 17.1.2017. The sum and substance of the said communication which is in Marathi is that the amendment to the relevant provision of 2011 rules was the issue under consideration of the Government and till such time as that was done, the Director

General of Police was considering as to what steps should be taken. Therefore, he directed the Commissioners of Police and Superintendents of Police to ascertain if reasons assigned by the concerned Police Constable seeking inter district transfer, were genuine and to submit the same with their own remarks to the office of Director General of Police.

5. The above discussion, in my opinion makes it very clear that as of now the aspect of inter district transfers of the Police Constables is governed by duly framed statutory rules and legally presiding over this Tribunal, I cannot give any direction to effect inter district transfers. The whole thing is clearly so obvious and I do not think any detailed discussion is necessary. The learned Advocate for the applicants told me that at least direction to act in accordance with the above referred communication should be given. In my view, I have quite clearly not issued any direction which would affect the power and its exercise by the concerned authority. Mr. Thakre, learned Advocate for the applicants points out to certain documents from Annexure 10 onwards to show that in fact inter district transfers have been made in case of some other Police Constables. As to this aspect of the matter, I find that if the Director General of Police in exercise of his power has already done as Mr. Thakre, learned Advocate for the applicants says he has, he is still free to take into consideration even the cases of the

present applicants. My order herein will not come in his way. However, when I am called upon to exercise my powers and Rule 11 stares in the judicial face, I do not think I can issue any such judicial fiat. Thus, these two O.As are accordingly disposed of as above with no order as to costs.

(R.B.Malik)
Member (J)

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