

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**ORIGINAL APPLICATION NOS.512 TO 517 OF 2020
WITH
ORIGINAL APPLICATION NOS.533 & 535 OF 2020**

DISTRICT : PUNE

ORIGINAL APPLICATION NO.512 OF 2020

Shri Dilip Manikrao Ghodake.)
Age : 48 Years, Working as Police Head)
Constable, Residing at Khadak Police Line,))
Room No.56, Shukrawar Peth,)
Pune – 411 002.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through Addl. Chief Secretary,)
Home Department, Mantralaya,)
Mumbai – 400 032.)
2. The Commissioner of Police.)
Sadhu Vaswani Chowk, Church Path))
Agarkar Nagar, Pune – 411 001.)
3. Special Inspector General of Police)
(VIP Security), State Intelligence)
Department, Dadar, Mumbai.)...**Respondents**

WITH

ORIGINAL APPLICATION NO.513 OF 2020

Shri Pramod Gopal Dhaigude.)
Age : 51 Years, Working as Police Head)
Constable, Residing at Lashkar Gadi Adda,)

Opp. Nishad Talkies, Pune.

)...**Applicant**

Versus

1. The State of Maharashtra & 2 Ors.)...**Respondents**

WITH

ORIGINAL APPLICATION NO.514 OF 2020

Shri Sanjay Shivaji Patil.)

Age : 51 Years, Working as Police Naik)

Residing at Sr.No.25/2, Road No.2,)

Ganesh Nagar, Bhopkhel, Pune – 411 031.)...**Applicant**

Versus

1. The State of Maharashtra & 2 Ors.)...**Respondents**

WITH

ORIGINAL APPLICATION NO.515 OF 2020

Shri Mohan Gajanan Malusare.)

Age : 50 Years, Working as Assistant Sub)

Inspector and Residing at Sr.No.18/1,)

Jai Bhavani Road, Lane No.6,)

Sambhaji Nagar, Dighi, Pune – 411 015.)...**Applicant**

Versus

1. The State of Maharashtra & 2 Ors.)...**Respondents**

WITH

ORIGINAL APPLICATION NO.516 OF 2020

Shri Keshav Sitaram Lole.)

Age : 51 Years, Working as Police Head)
Constable and residing at Vrindavan)
Colony, Near Bholeshwar Temple,)
Chinchwad, Pune – 411 033.)...**Applicant**

Versus

1. The State of Maharashtra & 2 Ors.)...**Respondents**

WITH

ORIGINAL APPLICATION NO.517 OF 2020

Shri Sanjay Nivrutti Dhumal.)
Age : 52 Years, Working as Police Head)
Constable and residing at B/11,)
Shivajinagar Police Line, Near Modern)
College, Pune – 411 005.)...**Applicant**

Versus

1. The State of Maharashtra & 2 Ors.)...**Respondents**

WITH

ORIGINAL APPLICATION NO.533 OF 2020

Shri Ravindra Narayan Dhumal.)
Age : 46 Years, Working as Police Head)
Constable and residing at Narayan Leela)
Building, Survey No.17, Galli No.5,)
Sukhsagar Nagar, Katraj, Pune – 411 046.)...**Applicant**

Versus

1. The State of Maharashtra & 2 Ors.)...**Respondents**

WITH**ORIGINAL APPLICATION NO.535 OF 2020**

Shri Sanjeev Sudam Shivale.)
Age : 49 Years, Working as Police Head)
Constable and residing at E-S1,)
Shivajinagar Police Line, Pune – 411 005.)...**Applicant**

Versus

1. The State of Maharashtra & 2 Ors.)...**Respondents**

Mrs. Punam Mahajan, Advocate for Applicant.

Mrs. A.B. Kololgi, Presenting Officer for Respondents.

CORAM : SHRI A.P. KURHEKAR, MEMBER-J

DATE : 02.09.2021

JUDGMENT

1. In all these Original Applications, the Applicants, who are Dog Handlers, have challenged the transfer order dated 26.09.2020 whereby they are transferred from Bomb Detection Squad Unit to different Police Stations invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. The issue posed for consideration in all these O.As is whether Dog Handlers could be transferred or shifted in between i.e. during operational life time of the concerned Dog. The Applicants are admittedly serving as Dog Handlers for a considerable period. The following Chart shows their appointment and period in Dog Squad and places of their transfer.

Sr.No.	Name of the Applicant	Date on which Applicants were posted as Dog Trainers	Name of Dog and present age	Place where they are transferred and Sr.No.in the transfer order
1.	Shri Dilip Manikrao Ghodake	2004	Eko, 7 years & 10 months old	Bundgarden Police Station (Sr.No.372)
2.	Shri Pramod Gopal Dhaigude	2004	Lima, 7 years old	Bundgarden Police Station (Sr.No.345)
3.	Shri Sanjay Shivaji Patil	2009	Dhruva, 3 years & 6 months	Chandan Nagar Police Station (Sr.No.3)
4.	Shri Mohan Gajanan Malusare	2008	Tyson, 5 years & 6 months old	Shivajinagar Police Station (Sr.No.48)
5.	Shri Keshav Sitaram Lole	1997	Rana, 3 years & 6 months	Khadaki Police Station (Sr.No.35)
6.	Shri Sanjay Nivrutti Dhumal	1994	Eko, 7 years & 10 months old	Swargate Police Station (Sr.No.41)
7.	Shri Sanjeev Sudam Shivale	1996	Surya, 5 years & 2 months old	Airport Police Station (Sr.No.343)
8.	Shri Ravindra N. Dhumal	1997	Surya, 5 years & 2 months old	Dattawadi Police Station (Sr.No.316)

3. Mrs. Punam Mahajan, learned Advocate for the Applicants has invited Tribunal's attention to the various letters, directives issued by Minister of Home Affairs, Government of India as well as Special Inspector General of Police (Intelligence) to substantiate that Dog Handlers should not be shifted or transferred to any other place during the operational life time of the concerned Dog. But in the present case, the Respondent No.2 – Commissioner of Police transferred the Applicants by order dated 26.09.2020 in blatant violation of the said guidelines which indeed would affect the performance of Dog Squad. She has further pointed out that even if Applicants were serving as Dog Handlers for a long period, they could not have been shifted or transferred mid-tenure by order dated 26.09.2020 and prayed to quash and set aside the impugned transfer orders and permit the Applicants to continue as Dog Handlers till operational life or retirement of the concerned Dog.

4. Whereas, Mrs. A.B. Kololgi, learned Presenting Officer in reference to Affidavit-in-reply filed by Respondent No.2 submits that the Applicants are working as Dog Handlers for a long period as against their normal tenure of five years and they are transferred in Pune City itself causing no inconvenience or hardship to them. She further submits that the Department has appointed new Dog Handlers, and therefore, it was necessary to train them by replacing the present Applicants. She further sought to contend that Police Establishment Board (PEB), therefore, rightly recommended for the transfer of the Applicants from Bomb Detection Squad to different Police Stations in Pune City.

5. True, the normal tenure of Police Head Constables and Police Constables is five years in a post in terms of Section 22N(1)(b) of Maharashtra Police Act, 1951. Admittedly, as seen from the Chart, the Applicants were in Bomb Detection Squad for more than one decade. However, here, the matter pertains to transfer of Dog Handlers and not Police Personnel as normally understood. In so far as Dog Handlers are concerned, it being specialized unit, the transfers of Dog Handlers are governed by the guidelines issued by Intelligence Bureau, Ministry of Home Affairs, Government of India as well as Special Inspector General of Police (Intelligence), Mumbai which specifically provides that the tenure of Dog Handler should not be changed during the operational life time of the Dog. In this behalf, reference of Circular dated 17.06.2008 is necessary in which in Para No.3, it is stated as follows :-

“3. One of the reasons for their poor performance could be that the dogs are rarely given refresher training by way of exposure to different types of explosives. The dog’s initial imprint learnt during training fades. If it does not smell an explosive over extended durations of time. Besides, it is important that the Handler of the dog is not changed during the operational lifetime of the dog. Ideally the Handler should also under the explosive training course with the dog and continue to work with it thereafter. These measures may be considered in the interest of bringing about overall and significant improvement in the performance of sniffer dogs.”

6. The above guidelines are again reiterated by the Office of Additional Superintendent of Police, Dog Squad, Crime Detection, Pune wherein it is stated as under :-

“यास्तव सदर बाबत सादर करण्यात येते की, श्वानपथकाच्या कामगिरीचा व श्वानांचा विचार होऊन विशेष बाब म्हणून श्वान पथकातील सध्या कार्यरत असणारे सेवानिवृत्त अथवा मयत होईपर्यंत श्वानहस्तक यांची इतर घटकात बदली करू नये असा सर्वसाधारण नियम आहे.”

7. Then again, it comes letter dated 07.06.2016 issued by Superintendent of Police, Crime Detection Unit, M.S, Pune wherein it is stated as under :-

“माननीय संचालक, इंटेल्जिन्स ब्युरो (IB), भारत सरकार यांचे Circular Memorandum संदर्भ नं. १२/पोलीस (Sports)/२००८ (२)/११४१ New Delhi, Date १७/०६/०८ मध्ये श्वान सेवेत असेपर्यंत श्वानहस्तकांची बदली करू नये असे नमूद केले आहे. तसेच दि महाराष्ट्र पोलीस डॉग स्कॉड मॅन्युअल, चॅप्टर १,४(५)(b)(c) मध्ये श्वानांवर नेमण्यात येणारे श्वानहस्तकांबाबत नियम नमूद केले आहेत.

यास्तव सदरबाबत सादर करण्यात येते की, श्वानपथकाच्या कामगिरीचा व श्वानांचा विचार होऊन विशेष बाब म्हणून श्वान पथकातील सध्या कार्यरत असणारे श्वान सेवानिवृत्त होईपर्यंत, मयत होईपर्यंत अथवा विशेष कारणास्तव किंवा विशेष बाब म्हणून तर प्रथम हस्तक व दुय्यम हस्तकाची बदली मस्तकाची बदली करावयाची असेल तर नवीन येणा-या हस्तक व श्वानांमध्ये ताळमेळ बसेपर्यंत प्रथम व द्वितीय श्वानहस्तक यांची इतर घटकात बदली करू नये असा सर्वसाधारण नियम आहे.

श्वान हस्तकांच्या बदल्यांबाबत यापूर्वी देखील इकडील कार्यालयीन पत्र जा.क्र. श्वाप्रके/गुअवि/श्वानहस्तक बदली/३१०/ २०१४, पुणे दि.३१/०५/ २०१४ अन्वये आपणास कळविण्यात आलेले आहे.

तरी श्वान हस्तकांच्या बदल्या करताना वरील परिस्थिती लक्षात घेऊन कार्यवाही होणेस विनंती आहे.”

8. Thereafter again, in letter dated 17.11.2016, Special Inspector General of Police, State Intelligence Department issued instructions to all Departments in the matter of transfer of Dog Handlers, which is as under:-

“बीडीडीएसमध्ये श्वान हा सेवानिवृत्त होईपर्यंत श्वानाने संगोपन, संवर्धन, प्रशिक्षण, नियमित सराव, त्याचे आरोग्य, त्याची सुश्रुषा, त्यास नियमित खादय देणे या सर्व गोष्टी श्वानहस्तकास कराव्या लागतात. बीडीडीएस पथकामध्ये श्वान व श्वानहस्तकाचे एक घनिष्ठ असे नाते तयार होते व याचा उपयोग देशातील व राज्यातील वाढत्या अतिरेकी कारवाया व अति महत्त्वाच्या व्यक्ति तसेच जनतेचे संरक्षण यासाठी होतो व कमी वेळात सदर संशईत वस्तुचा शोध लागण्यास मदत होते. (सोबत त्याची छायांकीत प्रत जोडण्यात आली आहे.)

सदर श्वान हस्तकाची बदली झाल्यास त्याच्या जागी नविन श्वान हस्तक आल्यास श्वानाचे व त्याचे नाते, मैत्री, घनिष्ठ संबंध हे तयार होण्यास वेळ जातो. श्वान हा एक एकनिष्ठ प्राणी असल्याने तो आपल्या मुळ हस्तकास कधीही विसरत नाही व हस्तकाची बदली झाल्यास त्याचा परिणाम त्याच्या कामावर तसेच त्याच्या आरोग्यावर होण्याचा धोका नाकारता येत नाही. तरी वरील अनुषंगाने श्वान हस्तकास श्वान दिल्यापासून ते तो श्वान सेवानिवृत्त होईपर्यंत त्या श्वान हस्तकाची बदली करण्यात येऊ नये तसेच त्यास त्याच्या कर्तव्याव्यतिरीकत इतर कोणतेही कर्तव्य देण्यात येऊ नये ही विनंती.”

9. Apart, let us see the provision contained in Maharashtra State Police Dog Squad Manual, which is at Page Nos.53 and 54 of Paper Book. Clause 4 of Manual is material, which is as under :-

“4. Selection of dog handlers.- (a) A dog handler should satisfy normally the following requirements :-

- (1) He should be preferably below the age of 40 years and physically fit.
- (2) He should possess sufficient Police experience.
- (3) He should be a genuine dog-lover with a proper understanding of the dog's nature and should be willing to handle and groom the dog and cook its food (meat), if required. While previous experience of handling animals would be an advantage, its absence need not be necessarily be a disqualification.
- (4) He should have aptitude for this type of work.
- (5) A cheerful disposition and equable temperament, mental alertness and perseverance are other desirable qualities.

(b) The selected handler, one for each dog, will, as a rule remain with the same dog throughout. This is important because the handler and the dog always and at all stages must work as a team. Consequently, frequent changes of handlers should be avoided as far as possible.

(c) The effectiveness of the handler will be determined by the extent to which he is able to develop love, attachment and understanding for his dog. It should be obvious that under no circumstances cruelty or violence by the handler or for that matter, any personnel towards the dog is to be tolerated.”

10. It is thus obvious that once Dog Handler is selected as a Rule, such Dog Handler should remain with the same Dog throughout. The idea behind it is to achieve best performance by continuing the same Dog Handler with the concerned Dog and to utilize their expertise which Dog Handlers gets on account of his continuous association and working with the concerned Dog. There is specific caution in Maharashtra State Police Dog Squad Manual that the changes of Dog Handlers should be avoided as far as possible and selected Dog Handler should remain with the same Dog throughout.

11. Despite the aforesaid position which has been reiterated by various Circulars, the Respondent No.2 has transferred the Applicant amidst the operational life time of the concerned Dog. The specious ground taken by Respondent No.2 in reply that in view of appointment of new Dog Handlers, the Applicants were required to be replaced is totally unpalatable, since it is contrary to the guidelines issued by Ministry of Home Affairs, etc. from time to time and secondly, it would also affect the performance of the Dog Squad. The dog and dog handler work as a team and should not be separated during the operational life time of the dog, so that they continue to work as a team to improve the performance and to achieve the object for which it is formed namely detection of bomb, etc. and to avoid any such incident of bomb explosion.

12. No doubt, the Applicants have worked in Dog Squad for a longer period, but care ought to have been taken to change them after the operational life time of the concerned Dog. However, the Respondent No.2 abruptly transferred the Applicants in total contravention of the guidelines. If new Dog Handlers are appointed, it may also cause some kind of harm or cruelty to the concerned Dog.

13. Apart, the Respondent No.2 has transferred the Applicants by order dated 26.09.2020 instead of transferring them in general transfer orders which have to be effected in the month of April or May of every year. Even if Police Personnel has completed normal tenure on a post, he could not be transferred other than in general transfers unless the matter falls under Section 22N(2) of Maharashtra Police Act, which *inter-alia* provides for making out a special case for public interest or administrative exigency for such mid-tenure transfer. No such case is made out to justify the provisions under Section 22N(2) of Maharashtra Police Act.

14. Notably, even the minutes of PEB are not forthcoming to see the reasons or grounds recorded by PEB for transfer of the Applicants. Suffice to say, the impugned orders are arbitrary and totally indefensible.

15. As such, considering the instructions issued by Intelligence Bureau and other Head of the Departments, etc., the transfer of the Applicants by order dated 06.09.2020 is unsustainable in law and it is liable to be quashed. The Applicants deserve to be allowed to continue until the operational life time of the concerned Dog and thereafter only, they can be subjected to transfer. Hence, the following order.

ORDER

- (A) All these Original Applications are allowed.
- (B) The impugned transfer order dated 26.09.2020 qua the Applicants are hereby quashed and set aside.
- (C) Interim relief granted by the Tribunal by order dated 01.10.2020 is made absolute.
- (D) No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Mumbai

Date : 02.09.2021

Dictation taken by :

S.K. Wamanse.

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