

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.151 OF 2020**

**DISTRICT : PUNE**

Shri Vijaykumar B. Lambture. )  
Age : 56 Yrs., Working as Police Inspector, )  
Special Branch in the Office of )  
Commissioner of Police, Sadhu Waswani )  
Chowk, Pune and residing at Vinit Plaza, )  
B/3, Opp. Vallabh Nagar S.T. Stand, )  
Pimpri, Pune. )...Applicant

**Versus**

1. The Commissioner of Police, )  
Pune City having office at 2, Sadhu )  
Waswani Road, Camp, Pune - 1. )  
2. Smt. Maya D. Deore. )  
Age : Adult, Working as Police )  
Inspector (Crime), Chatushringi )  
Police Station, )  
Police Commissionerate, Pune. )...Respondents

**Mr. A.V. Bandiwadekar, Advocate for Applicant.**

**Mr. A.J. Chougule, Presenting Officer for Respondents.**

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

**DATE : 20.08.2020**

*Wadhwa*

**JUDGMENT**

1. The Applicant has challenged the transfer order dated 12.12.2019 issued by Respondent No.1 – Commissioner of Police, Pune whereby he was transferred from the post of Police Inspector, Chatushringi Police Station, Pune to Special Branch, Pune invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.
2. The Applicant is serving in the cadre of Police Inspector. By order dated 7<sup>th</sup> November, 2019, he was transferred from Shivaji Nagar Police Station to Chatushringi Police Station, Pune. Then again, abruptly, within a period of five weeks, he was again transferred by impugned order dated 12.12.2019 from Chatushringi Police Station to Special Branch.
3. The short issue posed for consideration is whether the impugned transfer order purportedly issued invoking Section 22N(2) of Maharashtra Police Act is legal and valid.
4. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.
5. Indisputably earlier, the Applicant was transferred by order dated 7<sup>th</sup> November, 2019 from Shivaji Nagar Police Station to Chatushringi Police Station, Pune and had not completed his normal tenure of two years, as mandated under Section 22N(1)(c) of Maharashtra Police Act, which specifically provides that the tenure of Police Officer in the rank of Police Inspector shall be two years at a Police Station or Branch. Thus, there is no denying that the Applicant has not completed two years' tenure at Chatushringi Police Station and within five weeks, he was transferred from Chatushringi Police Station to Special Branch.
6. Shri A.V. Bandiwadekar, learned Advocate for the Applicant has tendered minutes of Police Establishment Board (PEB), which is taken on record and marked 'x' for identification to point out that no reasons even

for name sake are recorded while transferring the Applicant mid-term and mid-tenure. The perusal of minutes of PEB dated 11.12.2019 reveals that PEB was convened to discuss the issue of transfer of mainly two senior Police Inspectors viz. Murlidhar G. Karpe and Shri Sunil J. Tambe. Certain negligence and lack of supervision was attributed to them and it was discussed in the meeting. The PEB, therefore, recommended the transfer of Shri Karpe and Shri Tambe invoking Section 22N(2) of Maharashtra Police Act, which *inter-alia* empowers PEB for mid-term transfer of Police Personnel in public interest and on account of administrative exigency. However, while transferring Shri Karpe and Shri Tambe, the PEB also transferred 7 other Police Personnel including the Applicant. The name of the Applicant is at Serial No.7 in the Chart of minutes. All that, it is stated in the minutes that 9 Police Personnel are transferred invoking Section 22N(2) of Maharashtra Police Act. However, except reasons for mid-term transfer of Shri Karpe and Shri Tambe, no reason even for name sake is forthcoming while transferring the Applicant from Chatushringi Police Station to Special Branch.

7. True, in terms of Section 22N(2), the PEB can transfer Police Personnel mid-term in public interest and on account of administrative exigency. However, in the present case, not a single word is mentioned as to what constitutes public interest or administrative exigency while transferring the Applicant mid-term. Needless to mention that once law provides for fix tenure of two years at a Police Station, such employee cannot be transferred unless transfer fulfills requirement of transfer in public interest or on want of administrative exigency. The PEB was under obligation to record reasons for such mid-term transfer to substantiate that it is in public interest and on account of administrative exigency. A Police Personnel cannot be transferred simply by mentioning that the transfer is on administrative exigency. The PEB was under obligation to record the reasons to find out whether such mid-term transfer qualifies the test of public interest or administrative exigency. It

*Murli*

is not mere formality. However, as state above, not a single word even for name sake neither forthcoming nor mentioned in the minutes of PEB while transferring the Applicant mid-term. There must be compliance of Section 22N(2) with letter and spirit, which is completely missing in the present matter.

8. If transfer of Police Personnel simple by mentioning that it is in administrative exigency is allowed in this manner, then it would defeat and frustrate the very purpose of Section 22N(2), which is introduced Maharashtra Police Act in pursuance of directions of Hon'ble Supreme Court in **(2006) 8 SCC 1 (Prakash Singh & Ors. Vs. Union of India & Ors.)**. Suffice to say, the transfer of the Applicant is not sustainable in law.

9. I find no substance in the submission advanced by the learned Presenting Officer that the Applicant being transferred in Pune City itself, it is not amount to transfer in the eye of law. This submission is misconceived and fallacious. As stated above, the tenure of Police Inspector is of two years at a Police Station or Branch, as mandated in Section 22N(1)(c) of Maharashtra Police Act, and therefore, if Police Inspector is required to be transferred mid-term, then it must be in strict compliance with Section 22N(2) of Maharashtra Police Act.


10. True, the Government servant has no legal right to continue at one place and the transfer is an incident of service. However, when law provides for fix tenure of two years, in that event, the Police Personnel cannot be transferred mid-term without establishing public interest or administrative exigency.

11. In view of above, I have no hesitation to sum-up that the impugned transfer order is in defiance of Section 22N(2) of Maharashtra Police Act is liable to be quashed. Hence, the following order.

**ORDER**

As per order  
dated 25.8.2020  
amendment carried  
out on 31.8.2020

- (A) The Original Application is allowed. *qua-applicant*
- (B) The transfer order dated 12.12.2019 *is* quashed and set aside.
- (C) The Applicant be reposted on the post he was transferred from within two weeks from today.
- (D) No order as to costs.

  
31/8/2020  
Registrar,  
M. A. T. Mumbai

Sd/-

**(A.P. KURHEKAR)**  
**Member-J**

Mumbai  
Date : 20.08.2020  
Dictation taken by :  
S.K. Wamanse.

