

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 31 OF 2016

DISTRICT: HINGOLI

Shri Sandip Gajanan Gaikwad,
Age: 28 years, Occu. Service,
As Police Constable, B.N. 211,
General Duty, in the office of
Superintendent of Police, Hingoli,
R/o Paltan, Opp. Super Xerox,
Hingoli, Dist. Hingoli

.. **APPLICANT**

V E R S U S

- 1) The Special Inspector General of Police,
Nanded Range, Nanded.
- 2) The Superintendent of Police,
Office of Superintendent of Police,
Hingoli, Dist. Hingoli.
- 3) Shri Madhav s/o Anand Mutkule,
Age- Major, Occu. Service
As Police Constable
At Police Station, Golegaon
Presently posted as Dog Handler
Under B.D.D.S., Hingoli.

.. **RESPONDENTS**

APPEARANCE : Shri- S.D. Joshi, learned Advocate for the
Applicant.

: Shri- S.K. Shirse, learned Presenting Officer for
the Respondent Nos. 1 & 2.

: Shri- Rahul Awsarmal, learned Advocate
for respondent no. 3.

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

ORDER**(Delivered on this 19th day of July, 2017.)**

1. The applicant has challenged the transfer order dated 3.12.2015, issued by the respondent no. 2 thereby transferring and posting him from Police Headquarters, Hingoli to B.D.D.S. Hingoli in the capacity of Technician instead of posting him as a Dog Handler and at that time, posting the respondent no. 3 as Dog Handler, BDDS, Hingoli.

2. The applicant was appointed as Police Constable (JD) by the order of S.P. Parbhani dated 6.3.2009. By the order dated 21.04.2012, he was transferred as Constable and was posted at Police Headquarters, Hingoli. Thereafter, he was sent for training of Maharashtra Gupta Varta Prabhodhinini. He has completed the said training during 13.09.2012 and 27.09.2012. He has also participated in the 11th Maharashtra State Police Duty Meet-2013 during the period from 24.11.2013 to 29.11.2013 in anti-sabotage check.

3. On 23.05.1994, the Government of Maharashtra in its Home Department (Special) has taken policy decision to establish the Bomb Detection and Destroy Squad at Thane, Pune and Aurangabad. This squad consists of around 8 posting including

the post of Police Dog Handler. Thereafter, Bomb Detection and Destroy Squad came to be established in various districts including Hingoli District. 4 posts of Dog Handler had been sanctioned in Hingoli District by the G.R. dated 15.07.2011.

4. The Government of Maharashtra in its Ministry of Home Affairs, Intelligence Bureau issued guidelines on 17.06.2008 for the propose of effective functioning of the Police Dog and on the basis of said Circular, the Additional Superintendent of Police, Dog Training Centre, Crime Branch, Maharashtra State, Pune had issued communication dated 28.07.2008 as regards period of appointment of Dog Handler. It provides that Dog Handler cannot be changed till the retirement of Dog (which normally 10 years) or during the life time of the Dog (which normally ranges from 10 years to 14 years)

5. Out of 4 sanctioned posts of Dog Handler under Bomb Detection and Destroy Squad (BDDS), Hingoli, two posts were filled in on 29.03.2011 by appointing Police Head Constables Shri Maroti Jadhav and Shri R.L. Ingle. Thereafter, on 1.8.2012, the applicant i.e. Shri Sandip Gaikwad and one Shri Vishnu Pole were appointed as Dog Handler with immediate effect by the order of S.P. Hingoli. Thereafter, one Shri Limbaji Wahul was transferred

to B.D.D.S., Hingoli from the Police Station, Basamba on his request by order dated 14.06.2013. There was no necessity to post Shri Limbaji Wahule as Dog Handler, when 4 posts including the applicant were already appointed on the 4 sanctioned posts of Dog Handler. Thereafter, Shri Ingle and Shri Pole were sent for training to Pune along with the Dog, namely, Raja in the capacity of first Handler and second Handler. The applicant, Shri M.N. Jadhav and Shri Limbaji Wahule were not sent for training due to non-availability of Dog. In spite of that, on 4.7.2013, respondent no. 2 appointed one Shri Pravin Shivaji Bangar as Dog Handler under BDDS, Hingoli by order dated 4.7.2013. The respondent no. 2 committed irregularity in posting 6 incumbents against the 4 sanctioned posts of Dog Handler under BDDS Hingoli. The applicant and other four persons were continued to work as Dog Handler without Dog up to the year 2015. In the general transfer of the year 2015, the applicant was called in the office of S.P. and was given to understand that, for want of Dog, he is being transferred and posted to Police Headquarter, Hingoli and it was informed that on availability of Dog, he will be informed as Dog Handler. Accordingly, transfer order dated 25.04.2015 was issued and the applicant was transferred to Police Headquarter, Hingoli but Shri Pravin Bangar was retained with the BDDS, Hingoli as Dog Handler. The applicant made representation on

27.04.2015 to the S.P. Hingoli to mention in the remark column of the transfer order that he will be posted to Police Headquarter, Hingoli till the availability of the Dog instead of transfer on administrative ground. His representation had not been considered by the respondents. The second Dog became available in the first week of September, 2015. The applicant ought to have been appointed as first handler or second handler of the said Dog. But instead of that, the respondents have issued order dated 5.9.2015 and transferred the applicant to Anti-Terrorist Squad. On joining the said post, immediately he has made representation on 21.09.2015. His representation was not considered by the respondents and therefore, he has filed one more representation on 6.10.2015. Instead of considering his representations, the respondent no. 2 again issued impugned transfer order dated 3.12.2015 and transferred the applicant from Police Head Quarter Hingoli to BDDS, Hingoli but in the capacity of Technician and one Shri Madhav Mutkule i.e. respondent no. 3 was transferred as Dog Handler, BDDS, Hingoli. It is the contention of the applicant that he ought to have been posted as Dog Handler in place of Shri Madhav Mutkule, as he was appointed prior to Shri Mutkule, but the respondent no. 2 has issued impugned transfer order and transferred him as Technician in the BDDS, Hingoli. Therefore, he is constrained to file the present Original

Application, challenging impugned order of transfer dated 3.12.2015.

6. The respondent nos. 1 & 2 resisted the contentions of the applicant by filing affidavit in reply. They have admitted the fact that the applicant was appointed as Police Constable initially and thereafter, he was transferred to Police Head Quarter, Hingoli in the year 2015. It is their contention that the applicant had not undergone training of Dog Handling, but he has completed the training of Anti Sotbage Check and training of Bomb Detection and Destroy Squad. They have admitted the fact that 4 Police personnel including the applicant were appointed as Dog Handler and they were working there without Dog for considerable time. They have admitted the fact that Shri Ingle and Shri Pole were sent for Training at Pune along with Dog viz. Raja in the capacity of first and second Handler respectively, vide order dated 2.7.2013. It is their contention that if the applicant had any grievance regarding posting of Shri Limbaji Wahule as Dog Handler, he would have taken objection at that time. It is their contention that the applicant along with others were posted in BDDS, Hingoli till the year 2015 without Dog. But when the said fact has been brought to the notice of S.P. Hingoli in the general transfer of the year 2015, the applicant has been transferred from

the post of Dog Handler BDDS, Hingoli to Police Headquarter, Hingoli on administrative ground. The applicant was posted in Police Control Room from 4.12.2015 to 5.12.2015 as R.T.P.C., but the applicant remained absent unauthorizely. During that period, his brother threatened to the Police Control Room of S.P. Hingoli and also the office of the Special Inspector General of Police, Nanded range Nanded on phone that the applicant would commit suicide, in case he was not posted in BDDS, Hingoli as Dog Handler. This was illegal act on the part of the applicant in view of the provisions of Maharashtra Police (Punishment and Appeal) Rule 1959. Therefore, show cause notice was issued to the applicant and it was served on 9.1.2016.

7. It is their contention that there is no deliberate appointment of 7 persons on the post of the Dog Handler in BDDS Hingoli, but it was irregularity. Therefore, the said irregularity/mistake has been corrected in the general transfer of the year 2015. It is their contention that the respondent no. 3 Shri Madhav Mutkule and Shri Pravin Bangar have already been deputed for Dog Handling training at Pune and therefore, the applicant is not entitled to claim posting as Dog Handler at BDDS, Hingoli. Therefore, they have prayed to dismiss the present Original Application.

8. The respondent no. 3 has filed his affidavit in reply and contended that he has served at Goregaon, Dist. Hingoli for 4-5 years. He has filed request application for transfer, when he learnt that one post of Dog Handler in BDDS, Hingoli is going to be filled up. Accordingly, he was posted as Dog Handler, BDDS, Hingoli. Since 5.12.2015, Dog viz. Orient has been assigned to him. Therefore, he along with Dog has been sent for training at Pune from 1.1.2016. It is his contention that applicant has never handled any Dog and he has not undergone any training of Dog Handling. Therefore, he prayed to reject the present Original Application.

9. I have heard Shri S.D. Joshi, learned Advocate for the applicant, Shri S.K. Shirse, learned Presenting Officer for respondent nos. 1 & 2 and Shri Rahul Awsarmal, learned Advocate for respondent no. 3. I have perused the affidavit, affidavit in replies and various documents placed on record by the respective parties.

10. The learned Advocate for the applicant has submitted that the applicant and other 3 police personnel were initially appointed as Dog Handler in the B.D.D.S., Hingoli in the year 2011 and 2012. He has submitted that initially Shri Maroti

Jadhav and Shri R.L. Ingle were appointed as Dog Handler on 29.03.2011. Thereafter, he himself and one Shri Vishnu Pole were appointed as Dog Handler on 1.8.2012, against the 4 sanctioned post of Dog Handler in BDDS, Hingoli. Thereafter, again one Shri Wahule had been appointed as Dog Handler on 14.06.2013. Then on 04.07.2013, one Shri Pravin Bangar has been appointed as Dog Handler under BDDS, Hingoli. In all these employees were appointed as Dog Handler, against the 4 sanctioned post of Dog Handler under BDDS, Hingoli. He has argued that all Dog Handlers were working their without Dog till July 2013. Shri Ingale and Shri Pole were sent for training along with Dog namely Raja to Pune in the capacity of first Handler and second Handler respectively w.e.f. 09.02.2013. Thereafter, other employees remained there without Dog. He has submitted that the applicant has been transferred to Police Headquarter, Hingoli in the general transfer of the year 2015 with an understanding that he will be sent back to the BDDS, Hingoli and posted as Dog Handler on the availability of Dog. He has submitted that he joined his new posting and made representation with the respondents to make mention in the remark column of the transfer order that he was transferred with an understanding that he will be reposted as Dog Handler at BDDS, Hingoli. But his representation has not been considered by the respondents. He has submitted that thereafter

again he has been transferred to Anti-Terrorist Squad. He has submitted that meanwhile in the month of September, 2015 second Dog was available, but at that time, the respondent no. 2 had not posted him as Dog Handler, BDDS, Hingoli and instead of him, he sent other employees i.e. Shri Pravin Shivaji Bangar and Shri Madhav Mutkule (respondent no. 3) for training as Dog handler. He has submitted that in fact, the applicant ought to have been posted as Dog Handler in place of respondent no. 3 i.e. Shri Madhav Mutkule, as he was appointed as Dog Handler prior to Shri Mutkule. He has submitted that the respondent no. 2 has initially appointed the applicant as Dog Handler and therefore, he could have been considered for the post of Dog handler on the availability of the Dog. On these ground he prayed to allow the present Original Application and to modify the impugned order of transfer.

11. Learned Presenting Officer has submitted that the applicant and other employees were appointed as Dog Handler in the year 2011 and 2012, but no Dogs were available in the Dog Squad and therefore, they worked at B.D.D.S. Hingoli without Dog for considerable time. He has submitted that neither the applicant nor other employees had undergone training of Dog Handling. He has argued that in view of the guidelines, the Dog

Handler has to be sent to the training along with Dog and on completion of training, the Dog Handler cannot be shifted or transferred during the lifetime of the Dog. He has submitted that the applicant had undergone training of Anti-Sobtage Check and training of Bomb Detection and Destroy Squad as Technician. No training for Dog handling has been undergone by the applicant and therefore, as of right, he cannot claim that he may be posted as Dog Handler. He has submitted that the applicant has completed his tenure of posting in the B.D.D.S. and therefore, he has been transferred in the year 2015. No promise has been given by the respondents to the applicant that on availability of Dog, he will be posted as Dog Handler at BDDS, Hingoli. He has submitted that as the applicant has never undergone any training of Dog Handling, he cannot claim the relief as prayed for. He has further submitted that 4 sanctioned posts of Dog Handler has already been filled and therefore, request of the applicant cannot be considered. Therefore, he prayed to reject the O.A.

12. On going through the documents on record, it is crystal clear that initially the applicant and other three employees had been appointed as Dog Handler in the B.D.D.S., Hingoli in the year 2011 and 2012, but again two more employees were appointed as Dog Handler. In all 6 employees had been appointed

as Dog Handler in BDDS, Hingoli against 4 sanctioned posts. When the said irregularity/fact was brought to the notice of S.P. Hingoli at the time of general transfer of the year 2015, the applicant has been transferred from the post of Dog Handler BDDS, Hingoli to Police Headquarter, Hingoli on administrative ground, as he was due for transfer. On availability of Dog namely Raja the same has been assigned to Shri Ingale and Shri Pole and they were sent for training to Pune in the capacity of first Handler and second Handler w.e.f. 09.02.2013. In the month of September, 2015 another Dog namely Orient was available and therefore, respondent no. 3 and Shri Pravin Bangar had been sent for training to Pune w.e.f. 01.01.2016 and they have completed the training.

13. The grievance of the applicant is that he has been posted earlier to Shri Mutkule and Shri Banger, his name ought to have been considered by the respondent no. 2 for the post of Dog Handler and the respondents ought to have been sent him for training accordingly. But on going through the documents, it reveals that for the appointment on the post of Dog Handler, no specific qualification was required. The person who was appointed as Dog Handler has to undergo training of Dog Handling along with the Dog, on the availability of the Dog. The applicant had not

undergone any training of Dog Handling and therefore, he cannot claim that he should be considered for appointment as Dog Handler only on the ground that previously he was posted as Dog handler. On the contrary, the documents on record show that the applicant had undergone training of Anti Sobtage Cheque and training of Bomb Detection and Destroy Squad in the year 2016 and therefore, he has been posted as Technician in the BDDS, Hingoli by the impugned order. Therefore, in my opinion, there is no illegality in the order under challenge. The applicant has no right to claim his posting as Dog Handler in BDDS, as he has not undergone any training of Dog Handling. Therefore, his claim in that regard cannot be considered. There is not merit in the present O.A. Consequently, it deserves to be dismissed.

14. In view of the above facts and circumstances, the Original Application stands dismissed with no order as to costs.

(B.P. PATIL)
MEMBER (J)

KPB/S.B. O.A. No. 31 OF 2016 BPP 2017 TRANSFER