

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 1140/2023(S.B.)

Hemant S/o Narhari Shinde,
aged 56 years, Occ. Service,
R/o Shraddha Rest House,
Police Head Quarter, Ajani,
Nagpur Railway, Nagpur.

Applicant.

Versus

1. The State of Maharashtra,
Through Its Additional Chief Secretary,
Home Department,
Mantralaya, Mumbai-32.
2. The Director General of Police,
Having its Office Near Regal Theater,
Kolaba, Mumbai.
3. The Superintendent of Police,
Railway, Wanjari Nagar,
Near Water Tank, Ajani,
Nagpur - 440027.
4. Pandurang Mahadeo Sonawane,
aged about 53 year, Occ. Service,
R/o Special Branch,

C/o Commissioner of Police,
Civil Lines, Nagpur

Respondents

Shri S.P.Palshikar, Ld. Counsel for the applicant.
Shri M.I.Khan, Ld. P.O. for the respondents 1 to 3.
None for the respondent no.4.

Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 14th February, 2024.

JUDGMENT

Heard Shri S.P.Palshikar, learned counsel for the applicant and Shri M.I.Khan, learned P.O. for the Respondents 1 to 3.
None for the respondent no.4.

2. Case of the applicant in short is as under-

The applicant was appointed on the post of Police Sub-Inspector (P.S.I.) as per order dated 05.06.1991. The applicant was promoted as Assistant Police Inspector (A.P.I.) on 06.01.2003 and was posted in New Bombay, thereafter, the applicant was promoted and he joined as a Police Inspector at Gadchiroli on 30.12.2010. He was further promoted as a Deputy Superintendent of Police on 02.12.2021 and was posted at Railway Sub-Division, Nagpur. Applicant has joined the said post at Nagpur on 31.12.2021 since then he is continuously working on the said post.

3. By impugned order, the respondent no.2 issued a communication to all its subordinate there by calling information from interested person to work at Four Sub-Division in Gadchiroli District, mentioned in that communication. The applicant was recommended by his Superior Officer for mid-term transfer. Instead of considering the same the respondent no.1 transferred the applicant from Railway Sub-Division, Nagpur to Assistant Police Commissioner, Nagpur City. Therefore, the applicant has approached to this Tribunal for the following reliefs-

i) quash and set aside order of dated 17/07/2023 so far as applicant is concerned being illegal, bad in law;

ii) further be pleased to direct the respondent No.2 to issue of posting in pursuance of communication of respondent No.3 dated 26/05/2023 (Annexure-A6) posting the applicant as S.D.P.O. Aheri Sub-Division forthwith;

iii) further be pleased to hold and declare that order dated 13/10/2023 so far as respondent No.4 is concerned is contrary to the Maharashtra Police Act;

iv) grant any other relief which deemed fit including that of the costs in the facts and circumstances of the present case.

Interim Relief:-

During the pendency of the Original Application applicant prays for following relief:-

i) that this Hon'ble Tribunal be pleased to stay the effect and implantation of order dated 17/07/2023 so far as applicant is concerned with a further direction to respondent No.3 to allow the applicant to work as a Dy. S.P. Railway Sub-Division, Nagpur, during the pendency of the present Original Application.

4. The O.A. is strongly opposed by the respondents by filing reply. It is submitted that the respondents have complied the provisions of Transfer Act. His transfer is made by Chief Minister after the recommendation of Police Establishment Board. In para 5 and 6 of the reply, it is stated that the respondents have complied the provisions of Section 22-N (1)(a) of the Maharashtra Police Act, 1951 and also the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005. Applicant already joined at the transferred post. Therefore, the O.A. is liable to be dismissed.

5. During the course of submission, the learned counsel for the applicant has submitted that applicant was not due for transfer. The recommendation of Police Establishment Board is not filed on record. The applicant is interested to work in Gadchiroli District. Now, there is no dispute that the applicant has already joined at

transferred place. Stay was not granted by this Tribunal to the impugned transfer order. Hence, the following order-

ORDER

1. The O.A. is partly allowed.
2. The respondents are directed to consider the recommendation made by the Superintendent of Police, Railway Sub-Division, Nagpur dated 26.05.2023 and, if possible give posting to the applicant in Gadchiroli District in the coming general transfer of March, April, May-2024.
3. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated - 14/02/2024
rsm.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Vice Chairman.
Judgment signed on : 14/02/2024.
Uploaded on : 20/02/2024.
