

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.127/2016

DISTRICT – AHMEDNAGAR

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1. Suryakant S/o. Narayan Markad,
Age: 58 years, Occ : Service,
R/o. Police Head Quarters, Ahmednagar,
Tq. & Dist. Ahmednagar.
 2. Anna S/o. Ramkrushna Wagh,
Age: 57 years, Occ : Service,
R/o. Police Head Quarters, Ahmednagar,
Tq. & Dist. Ahmednagar.
 3. Satish S/o. Sarjeraon Gund,
Age: 56 years, Occ : Service,
R/o. Police Head Quarters, Ahmednagar,
Tq. & Dist. Ahmednagar.
 4. Ganpat S/o. Yashwant Jathar,
Age: 57 years, Occ : Service,
R/o. Police Head Quarters, Ahmednagar,
Tq. & Dist. Ahmednagar.
 5. Ghanshyam S/o. Arjun Phasale,
Age: 58 years, Occ : Service,
R/o. Police Head Quarters, Ahmednagar,
Tq. & Dist. Ahmednagar.

...APPLICANTS

V E R S U S

1. The State of Maharashtra,
Through its Chief Secretary,
Home Department,
Mantralaya, Mumbai-32

(Copy to be served on C.P.O. MAT
Bench at Aurangabad)
2. The Superintendent of Police,
Ahmednagar, Dist. Ahmednagar.

3. The Reserved Police Inspector,
Police Head Quarters, Ahmednagar,
Tq. & Dist. Ahmednagar. ...RESPONDENTS

APPEARANCE :Shri N.B.Narwade, learned Advocate for the
applicant.

Smt. Priya Bharaswadkar, learned Presenting
Officer for the respondents.

CORAM : Hon'ble Shri J.D.Kulkarni, Member (J)

J U D G M E N T

[Delivered on 25th November, 2016]

Applicants are challenging their transfer from Police Headquarter, Ahmednagar to Sangamner Police Station, Tq. & Dist. Ahmednagar. Said impugned order of transfer has been passed by respondent no.2 Superintendent of Police, Ahmednagar on 07-09-2015. According to the applicants they have been relieved and have immediately joined at the place of posting on 10-09-2015, and thereafter filed representation on 11-09-2015 requesting cancellation of the said transfer. In the representations, they have stated that their transfer is mid-term and mid-tenure. They have taken ground of education of their children and also of old aged father and mother. Accordingly, they

have requested for cancellation of transfer and also sought permission to approach legal forum if their order is not cancelled.

2. Learned Advocate for the applicants submits that the order of transfer of the applicants is mid-term since they have not completed tenure in the Police Headquarters and the applicants have been transferred without taking into consideration their inconvenience and inconvenience of their family members.

3. Respondent nos.2 and 3 have resisted claim and submitted that the transfer order has been passed in the interest of administration. It is stated that Sangamner Police Station covers sensitive areas. Sanctioned strength of said Police Station is 107 but only 68 policemen are appointed. In the month of September, there were Ganesh Festival, Navratri Festival and Grampanchayat elections, and therefore, to have ample strength of policemen and in order to tackle law and order situation, the Establishment Board decided to transfer 10 policemen from the Headquarter to Sangamner Police Station. Thereby applicants came to be transferred on administrative ground.

4. During the course of the arguments, it was stated by the learned Advocate for the applicants that impugned transfer order has been issued by the Superintendent of Police, Ahmednagar. It

seems from the impugned order of transfer that it has been signed by Superintendent of Police, Ahmednagar. It was pointed out that for consideration of transfer of different police personnel a competent board has been established as per Section 22(J)(1) of the Maharashtra Police Act and that the transfer order has been issued by Superintendent of Police, Ahmednagar in police personnel capacity and not as a member of the Board. It is also stated that sanction of the higher authority is necessary for mid-term transfer.

5. In order to find out the facts, vide order dated 29-08-2016, learned P.O. was directed to make position clear and the Superintendent of Police, Ahmednagar was directed to file affidavit vide order dated 28-07-2016. Accordingly, Respondent no.2 i.e. Dr. Saurabh Neelkanth Tripathi, Superintendent of Police, Ahmednagar has filed his affidavit. Paragraph 2 and 3 of the said reply is as under:

“2. I say and submit that as per G.R. of Home Department vide no. 2/2015 Establishment Board was formed. The Superintendent of Police Ahmednagar, Additional Superintendent of Police Ahmednagar, Divisional Police Officer (Home) and Superintendent of Office are the Board

members. The transfer order DT. 7/9/2015 is passed by the Establishment Board. The copy of office note is filed and annexed vide Exh. no. A. Accordingly in the present case in order to control the law and order of Sangamner City and major bandobast like Grampanchayat election, Ganpati festival and Navratra festival hence order of Applicants was issued on 7/9/2015 and said is legal and proper.

3. I further say and submit that as the transfer order DT. 7/9/2015 is passed by the Establishment Board, sanction of highest competent authority was not necessary for issuing transfer order and hence said is not obtained.”

6. Respondent no.2 has also placed on record minutes of meeting of the competent Board which includes the Superintendent of Police Ahmednagar, Additional Superintendent of Police Ahmednagar, Deputy Superintendent of Police (Home), Ahmednagar and Office Superintendent, Ahmednagar. Perusal of the said minutes shows that the committee considered the fact of law and order situation as well as ensuing Ganesh festival, Navratri festival, Grampanchayat elections etc. and found that some police constables were required to be transferred. Accordingly, they have decided to transfer 63 police constables

and after taking into consideration the above situation, impugned order of transfer has been passed, which is naturally signed by Superintendent of Police, being Head of the Office/Department at Ahmednagar. Along with applicants as many as 63 policemen have been transferred for the administrative convenience.

7. Applicants have not filed rejoinder to the short affidavit filed by respondent no.2. As per Section 22(J)(1) of the Maharashtra Police Act, the Police Establishment Board at District level has every authority to transfer the police constables in the district at any time, and there is no need of obtaining sanction of the higher authority for such transfer within the district.

8. I, therefore, find no illegality in the order of transfer passed by the respondent no.2. In view thereof, I pass following order:

ORDER

O.A. stands dismissed with no order as to costs.

(J. D. Kulkarni)
MEMBER (J)