

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.694/2016

DISTRICT: - AHMEDNAGAR

Shri Sanjay Kisan Gaikwad,
Age : 42 years, Occu. : Govt. Service
Working as Wireless Operator,
Police Department at present
working in the office of
Superintendent of Police, Ahmednagar,
Dist. Ahmednagar,
R/o. Office of Superintendent of Police,
Ahmednagar, Dist. Ahmednagar.

...APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai-32.
- 2) The Additional Director General
Of Police (Wireless), Maharashtra State,
Pune.
- 3) The Superintendent of Police,
Ahmednagar.

...RESPONDENTS

APPEARANCE :Shri S.R.Sapkhal Advocate for the
Applicant.

:Smt. Sanjivani Ghate Presenting Officer
for the respondents.

CORAM : B. P. Patil, Member (J)

DATE : 20th September, 2017

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J U D G M E N T
[Delivered on 20th day of September, 2017]

The applicant has challenged the order dated 12/20-08-2016 issued by the respondent no.2 by which he has been deputed and posted on the establishment of State Disaster Response Force ("SDRF" for short) at Dhule from Ahmednagar by filing the present O.A.

2. Applicant possesses Diploma in Electrical. In the year 2004, he applied for the post of Wireless Operator in the Police Department in response to the advertisement. He was selected in the recruitment process and was appointed on 24-02-2004 as Wireless Operator which is equivalent to the post of Head Constable. He had worked as Wireless Operator in State Reserve Police Force ("SRPF" for short), Group 8, Goregaon, Mumbai since the date of his appointment i.e. from 24-02-2004. On 07-12-2006, he was transferred as Wireless Operator on the establishment of Superintendent of Police, Ahmednagar. In the month of July 2012, he was transferred to the office of Commissioner of Police Aurangabad. On 21-03-2016, he submitted application to the Additional Director General of Police, Wireless, Pune to transfer him at Ahmednagar District.

His request was considered favourably by his higher authorities and accordingly on 20-05-2016, he was transferred from Police Commissioner Office, Aurangabad to the establishment of Superintendent of Police, Ahmednagar. He has been relieved from the office of Commissioner of Police Aurangabad on 31-07-2016 in pursuance to the order dated 20-05-2016. Thereafter, the applicant joined office of Superintendent of Police, Ahmednagar on 01-08-2016 and since then he is working as Wireless Operator there.

3. By the Resolution dated 19-05-2016, the Government of Maharashtra created separate department called as State Disaster Response Force (SDRF) and created 428 posts for the said department. Said posts have to be filled in from various departments on deputation. Out of total 30 posts sanctioned for Wireless Operators, 15 posts were sanctioned for Division No.4 and remaining 15 posts are sanctioned for Division No.6. Concerned Government servant sent on deputation to the said department has to complete service of 5 years. He must undergo the training from National Disaster Response Force (NDRF). On 12/20-08-2016, Additional Director General of Police

(Wireless), Pune deputed the applicant in the newly created department of State Disaster Response Force along with others on the ground that the applicant was eligible for the deputation.

4. It is his contention that he has not undergone required training of disaster management. He had not given his willingness for deputation to State Disaster Response Force. It is his contention that he joined office of Superintendent of Police, Ahmednagar on 01-08-2016 and within 12 days he has been transferred by way of deputation. It is his contention that the impugned order dated 12/20-08-2016 is not in accordance with the rules and regulations framed by the Government, and therefore, he prayed to quash the impugned order of his deputation by filing the O.A.

5. Respondent no.2 has filed affidavit in reply and resisted the contentions of the applicant. He has not disputed the fact that the applicant was appointed on 24-02-2004 and joined duty as Wireless Operator in SRPF Group 8 Goregon, Mumbai. He has not disputed the fact that thereafter the applicant was transferred to

Ahmednagar on 01-08-2016 on his request. He has not disputed the fact that thereafter the applicant was transferred at Aurangabad in the year 2012. It is not disputed that in the year 2016, the applicant has been again transferred to Ahmednagar on his request by order dated 20-05-2016 and he has been relieved on 31-07-2016, and thereafter, he joined his duties on 01-08-2016.

6. It is averred by the respondent no.2 that while appointing the applicant as Police Head Constable Wireless Operator in Police Department, it was one of the conditions that the concerned employee can be appointed anywhere in the State of Maharashtra and he will be deputed anywhere in Maharashtra and outside Maharashtra State also. By accepting the said conditions the applicant accepted the job, and therefore, said condition is binding on him. It is averred by the respondent no.2 that by the Government Resolution dated 19-05-2016 State Disaster Response Force was created at SRPF, Dhule and SRPF, Nagpur. According to the said G.R., 4 Wireless Operators have to be appointed at SRPF Group 4 Nagpur and 4 Wireless Operators have to be appointed at SRPF Group 6 Dhule. As per the Government Resolution respondent no.2 called

willingness of the eligible police personnel from all the Unit Commanders by Wireless Message dated 16-07-2016 for deputing at SRPF Group 4 Nagpur and SRPF Group 6 Dhule, and therefore, the Zonal Committee was constituted. Meeting of the committee was held and committee recommended name of the applicant for deputation on the post of Police Constable (Wireless Operator) at SRPF Group 6 Dhule. On the basis of recommendations of the said committee, the impugned order has been issued by the respondent no.2. It is contended by the respondent no.2 that there is no illegality in passing the order as the applicant was sent on deputation in view of the G.R. Therefore, he prayed to reject the O.A.

7. Heard Shri S.R.Sapkal Advocate for the applicant and Smt. Sanjivani Ghate Presenting Officer for the respondents. Perused documents produced on record by the parties.

8. Learned Advocate for the applicant has submitted that the applicant has been transferred to the office of Superintendent of Police Ahmednagar from the office of

Commissioner of Police, Aurangabad by order dated 20-05-2016. He has been relieved from the office of Commissioner of Police, Aurangabad on 31-07-2016 and thereafter, he joined office of Superintendent of Police, Ahmednagar on 01-08-2016. He has argued that within 12 days the impugned order has been issued by the respondent no.2 and he was sent on deputation at SRPF Dhule as Police Head Constable Wireless Operator in SDRF on newly created post for the period of 5 years. He has argued that the applicant has been transferred at Ahmednagar on request considering his family problems. The applicant never gave willingness for deputation at SDRF Dhule. He was not satisfying the conditions required for deputation in SDRF. He has submitted that his higher authorities had not recommended his name for deputation but the respondent no.2 abruptly passed the order dated 12-08-2016 regarding deputation of the applicant, which is illegal. Therefore, he prayed to allow the O.A. and quash the impugned order.

9. Learned P.O. has submitted that the Government has established State Disaster Response Force by G.R. dated 30-08-2014 and 19-05-2016 and created 428 posts in the

said department. It was decided by the Government to depute employees from other departments on the establishment of newly created department of SDRF. She has submitted that 4 posts of Wireless Operators were created at SRPF Nagpur and 4 posts of Wireless Operators were created at SRPF Dhule. She has argued that willingness of the eligible employees has been called for deputation as per G.R. dated 19-05-2016 but none of the employees gave willingness for deputation at SRPF Dhule. Therefore, a committee has been formed for appointing eligible employees on deputation at SRPF Dhule on 08-08-2016.

10. Committee in its meeting dated 08-08-2016 considered the recommendations of the concerned officers and on the recommendation made by the concerned officers, 13 employees were recommended for deputation including the applicant. On the basis of said recommendations, respondent no.2 passed impugned order dated 12/20-08-2016 and deputed the applicant at Dhule. She has submitted that there is nothing illegal in the impugned order and the order has been passed considering the guidelines given in the G.R. and the

decision taken by the Committee appointed for the same, and therefore, she supported the impugned order and prayed for dismissal of the O.A.

11. On going through the documents, it reveals that the Government of Maharashtra resolved to establish 2 companies for State Disaster Response Force by G.R. dated 30-08-2014 and created 428 posts on the establishment of Director General of Police, Maharashtra State. In view of the said G.R., Government issued another G.R. dated 19-05-2016 establishing SDRF and decided to fill up posts on deputation. Period of deputation was 5 years. In pursuance of the said G.R. respondent no.2 requested the Director General of Police, Maharashtra State, Mumbai to call the willingness of the willing police personnel to be deputed on the establishment by letter dated 16-07-2016 (page 62). Nobody had given willingness for the deputation at SRPF Group 6 Dhule. Therefore, a committee has been constituted for appointment of Police Personnel on the establishment of SDRF on deputation vide order dated 08-08-2010 (Page 65). The committee was headed by Deputy Superintendent of Police (Wireless), Nashik Region, Nashik and members of the said committee were Assistant

Sub Inspector, Nashik Region, Police Inspector (Wireless), Nashik City, Police Inspector (Wireless), Nashik City and Police Inspector (Wireless), Nashik Rural. The meeting of the committee was held on the very day i.e. on 08-08-2016. The committee considered recommendations of the concerned authorities, and thereafter, decided to appoint 13 police personnel including the applicant on deputation in SDRF (page 66-67). On the basis of said recommendations, respondent no.2 issued the impugned order dated 12/20-08-2016. The impugned order dated 12/20-08-2016 shows that the said deputation has been made on the recommendations of the Superintendent of Police (Wireless), Western Zone, Pune and Eastern Zone, Nagpur. Said impugned order is in accordance with the Government Resolutions and decisions taken by the committee.

12. Therefore, in my opinion, there is no illegality in the impugned order issued by the respondent no.2 by which the applicant has been deputed and posted at Dhule. Therefore, I do not find substance in the contentions raised by the learned Advocate for the applicant in that regard.

There is no illegality in the impugned order. There is no merit in the O.A. Therefore, no interference is called for in the impugned order. Hence, O.A. deserves to be dismissed.

13. In view of the above facts and circumstances of the case, O.A. stands dismissed with no order as to costs.

(B. P. Patil)
MEMBER (J)

Place : Aurangabad
Date : 20-09-2017.