

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO.751/2017

DISTRICT: NANDURBAR

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Deepak Kisanrao Budhwant,  
Age : 50 years, Occu. : Service,  
R/o. Police Line, Nandurbar,  
District Nandurbar.

...APPLICANT

**V E R S U S**

- 1) The State of Maharashtra,  
Through its Secretary,  
Home Department,  
Mantralaya, Mumbai-32.
  - 2) The Special Inspector General of Police,  
Nashik Zone, Nashik.
  - 3) The Additional Superintendent of Police,  
Nandurbar.
  - 4) Superintendent of Police,  
Nandurbar.
  - 5) Sanjay Raghunath Mathure,  
Age : 50 years, Occ : Service,  
R/o. Nandurbar,  
District Nandurbar.
- ...RESPONDENTS

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APPEARANCE :Shri Dipesh Pande Advocate holding for  
Shri D.S.Bagul Advocate for the Applicant.  
:Shri M.P.Gude Presenting Officer for the  
respondents.

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

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DATE : 30<sup>th</sup> August, 2018  
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**J U D G M E N T**  
**[Delivered on 30<sup>th</sup> day of August 2018]**

1. The applicant has challenged the order dated 10-10-2017 issued by the respondent no.4 thereby transferring him from Nandurbar City Police Station to Control Room, Nandurbar and posting the respondent no.4 in his post by filing the present O.A.

2. The applicant joined the Police Force as Police Sub Inspector on his selection and recommendation by the Maharashtra Public Service Commission (MPSC) in the year 1998 and he was posted at Bhandara. Thereafter, in the year 1999-2000, he was posted at Highway Traffic Balapur, Washim. In the year 2001-2004, the applicant was posted as Police Sub Inspector at Akola Police Station. Thereafter, he was promoted as Assistant Police Inspector and posted at Nagpur during the year 2004-2007. Thereafter, he was transferred at Akola and he served there during the year 2007-2010. In the year 2010, he was promoted as Police Inspector and posted at Buldhana. He was working there till the year 2014. In the year 2014, he was transferred at Dhadgaon Police Station in Nandurbar District. He has completed his tenure of 2 years at Dhadgaon Police Station

successfully. Thereafter, he has been transferred to Nandurbar from Dhadgaon. As per the practice of the respondent no.4, initially, he joined Control Room at Nandurbar. On 01-06-2017, he reported to respondent no.4, and thereafter, on 02-06-2017, respondent no.4 issued an order giving regular posting as Police Inspector to the applicant at Nandurbar Police Station. Accordingly, he joined his new posting and started discharging duties.

3. It is further contention of the applicant that he rendered service to the satisfaction of his senior authorities, and therefore, he was awarded by the respondents from time to time by appreciating his work. It is contention of the applicant that the respondent no.5 was serving at Nashik. On 31-05-2017, he was transferred from Nashik to Control Room, Nandurbar. The respondent no.5 is an influential officer. He developed political connections with political leaders. By using his good office, respondent no.5 has managed to secure transfer order from Nashik to Nandurbar. On 01-06-2017, he joined duty at Control Room, Nandurbar. He has hand in gloves with the respondent no.4, and therefore, the respondent no.4 passed the order dated 10-10-2017 and thereby transferred the

applicant from Nandurbar Police Station and by the same order transferred and posted the respondent no.5 at the place of the applicant. It is his contention that the impugned order of transfer is in contravention of the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 ("Transfer Act" for short). No reason has been assigned by the respondent no.4 while making his transfer.

4. It is his contention that since 10-10-2017 he was on medical leave, and therefore, he had not handed over the charge of his post. It is his contention that the impugned order is in contravention of the various decisions rendered by the Hon'ble High Court in that regard. He has been transferred from Nandurbar City Police Station by respondent no.4 with intent to accommodate the respondent no.5. Said order has been issued without recording reasons in writing and without obtaining prior approval of the higher competent authority, and therefore, it is illegal. Therefore, the applicant has challenged the impugned order dated 10-10-2017 by filing the present O.A. and prayed for quashing and setting aside the same and

prayed to direct the respondent no.4 to repost him at City Police Station, Nandurbar.

5. Respondent nos.1 to 4 have filed their affidavit in reply and resisted the contentions of the applicant. They have denied that the applicant rendered the service without any blot and his work has been appreciated by the respondents from time to time. It is their contention that several allegations and complaints were made against the applicant, and therefore, he was reprimanded. Written memos were also issued and fine in the tune of Rs.100/- and 500/- has been imposed on him from time to time. It is their contention that the provisions of Transfer Act, 2005 are not attracted in the instant case as the transfer of the applicant has been made in view of the provisions of the special statute i.e. Maharashtra Police Act. It is their contention that the preliminary enquiry has been conducted pursuant to allegations made against him, and thereafter, enquiry report has been submitted on 26-09-2017. In view of the said report and several allegations against the applicant, a proposal regarding transfer of the applicant has been placed before the Police Establishment Board at District level in the meeting dated

10-10-2017. The Police Establishment Board at District level has considered the enquiry report, allegations therein and behavior of the applicant and found that the applicant was not confident while discharging his duties and his behavior was not befitting to the Police Officer. Therefore, in the public interest and on account of the administrative exigencies, they have decided to transfer the applicant as an exceptional case. Accordingly, he has been Transferred from City Police Station, Nandurbar to Police Control Room, Nandurbar.

6. It is their contention that the Police Establishment Board at District level is competent transferring authority to make transfers and postings of Police Personnel up to the rank of Police Inspectors within the district in view of the provisions of the Maharashtra Police Act. Therefore, the Police Establishment Board at District level has decided to transfer the applicant. On the basis of decision of the Police Establishment Board at District level, respondent no.4 issued the impugned order transferring the applicant. They have denied that the impugned order of transfer has been issued by the respondent no.4 at the instance of respondent no.5 to accommodate him at the place of the

applicant. It is their contention that the impugned order has been issued by following due procedure and provision as provided in Maharashtra Police Act and there is no illegality in the same. Therefore, they have prayed to reject the O.A.

7. I have heard Shri Dipesh Pande Advocate holding for Shri D.S.Bagul Advocate for the Applicant and Shri M.P.Gude Presenting Officer for the respondents and perused documents place on record by the parties.

8. Admittedly, the applicant has entered service of the Home Department in the Government of Maharashtra as Police Sub Inspector in the year 1998. He served at several Police Stations. In the year 2004, he was promoted as Assistant Police Inspector. In the year 2010, he was further promoted as Police Inspector and posted at Buldhana. He served there till 2014. In the year 2014, he was transferred at Dhadgaon Police Station in Nandurbar District. After completion of his tenure at Dhadgaon, he was transferred at Nandurbar on 31-05-2017. Accordingly, he joined at Control Room, Nandurbar on 01-06-2017. On 02-06-2017, he was posted at Nandurbar City Police Station. He has

been transferred by the impugned order from Nandurbar Police Station to Control Room, Nandurbar.

9. Learned Advocate for the applicant has submitted that the applicant has joined his posting as Police Inspector at Nandurbar City Police Station on 02-06-2017. He has not completed his normal tenure of posting there but he has been abruptly transferred from Nandurbar City Police Station to Control Room, Nandurbar by the impugned order dated 10-10-2017. He has submitted that the impugned order is mid-term and mid-tenure order. He has submitted that the impugned order does not disclose the reasons for which he has been transferred. The impugned order is in contravention of the provisions of the Transfer Act, 2005. He has submitted that the approval of the higher authority for such mid-term and mid-tenure transfer has not been obtained by the respondent no.4 while issuing the impugned order, and therefore, it is illegal and in contravention of the provisions of Transfer Act, 2005. Therefore, he has prayed to quash the impugned order by allowing the O.A.

10. Learned Advocate for the applicant has further submitted that the respondent no.4 has issued the

impugned order at the instance of respondent no.5 as the respondent no.5 has political connections with the political leaders and he is an influential person. He has submitted that the impugned order has been issued by the respondent no.4 to accommodate the respondent no.5. He has submitted that the impugned order has been issued with mala fide intention, and therefore, it requires to be quashed and set aside.

11. Learned P.O. has submitted that the impugned order has been issued by the respondent no.4 in view of the provisions of Maharashtra Police Act as per the decision taken by the Police Establishment Board at District Level. He has submitted that the applicant is serving in the Police Force and separate statute is enacted by the Government of Maharashtra for regulating transfers of the Police Personnel. Therefore, the provisions of Transfer Act, 2005 are not attracted in this case.

12. He has submitted that the impugned order has been issued as per the decision taken by the Police Establishment Board at District level in its meeting dated 10-10-2017. He has submitted that during the tenure of the applicant as a Police Inspector at Nandurbar City Police

Station, law and order situation in the city has been worsened. There were riots in the city because of the inaction on the part of the applicant. The applicant had no control over the law and order situation in the city. Not only this but there were several complaints against him, and therefore, preliminary enquiry had been ordered in that regard. The enquiry report has been submitted by the enquiry officer holding the applicant guilty for his inaction. He has submitted that the report has been forwarded to the Special Inspector General of Police, Nashik for obtaining permission to initiate departmental enquiry. As law and order situation in the city was worsened and there was danger to the public peace and tranquility because of the negligence on the part of the applicant while discharging the duty, the enquiry report and proposal was placed before the Police Establishment Board at District level in its meeting held on 10-10-2017. After considering the said report, the allegations therein and the findings of the Enquiry Officer, members of the Police Establishment Board at District level made transfer of the applicant in view of the provisions of S.22N(2) of the Maharashtra Police Act within the District. Therefore, there is no illegality in the impugned order as the same has been issued by the

competent transferring authority as provided u/s.22N(2) of the Maharashtra Police Act. He has submitted that there is no illegality in the impugned order. Therefore, he has prayed dismiss the O.A.

13. Learned P.O. has placed reliance on the judgment of the Maharashtra Administrative Tribunal in **O.A.No.323/2015** in the case of **Sanjay s/o Gulabrao Deshmukh V/s. the State of Maharashtra & Ors.** decided on 16-12-2015 and also on the judgment in **O.A.No.770/2016** in the case of **Pramod Sitaram Dongre V/s. The State of Maharashtra & Ors.** decided on 07-10-2017.

14. On perusal of the record it reveals that the applicant was posted at Nandurbar City Police Station w.e.f. 02-06-2017. He worked there till the impugned order dated 10-10-2017. The record shows that during the period of 4 months several instances of riots have been occurred in Nandurbar City. Therefore, the respondent no.4 directed the preliminary enquiry in that regard. Enquiry Officer made enquiry in it and during the enquiry, it was disclosed that the applicant was negligent in discharging his duty. He had not taken prompt action to prevent the offences

took place in the jurisdiction of the Nandurbar City Police Station. Because of the inaction on his part, riots took place and law and order situation was deteriorated. The report was submitted to the respondent no.4. Thereafter, respondent no.4 forwarded the same to Special Inspector General of Police, Nashik for initiating department enquiry against the applicant. The enquiry report has been placed before the Police Establishment Board at District level in the meeting held on 10-10-2017. The members of the Police Establishment Board considered the enquiry report in detail and arrived at a conclusion that the applicant was negligent in discharging his duties. He has not acted in the public interest at large. Because of the inaction on the part of the applicant, law and order situation is created in the Nandurbar City Police Station. Therefore, in the public interest and on the ground of administrative exigencies they have decided to transfer the applicant and thereafter the transfer order has been issued by the respondent no.4, accordingly.

15. Law and order situation was created in the city because of the inaction and for want of prompt action on the part of the applicant. The riots occurred as the

applicant was not in position to control the situation. The public safety was at stake, and therefore, the Police Establishment Board at District level decided to transfer the applicant. All these facts have been mentioned in the minutes of the meeting of the Police Establishment Board dated 10-10-2017, which is placed on record at paper book page 77 to 86. On perusal of the said minutes of the meeting, it reveals that the members of the board considered the report and the conduct of the applicant, and thereafter arrived at a conclusion that it was not desirable to keep the applicant at the City Police Station, Nandurbar in the public interest. They have taken conscious decision to transfer the applicant and accordingly they have transferred the applicant. They have also decided to transfer the applicant considering the forthcoming Municipal Council Elections of the Nandurbar Municipal Council and to maintain peace in the vicinity. Therefore, in my view, there is nothing illegal in the impugned order issued by the respondent no.4.

16. The Police Establishment Board at District level has been constituted by the respondent no.4 in view of provisions of S.22J(1). The Police Establishment Board at

District level is empowered to make transfers of the Police Personnel in the public interest, in exceptional cases and on account of the administrative exigencies in view of the provisions of S.22N(2) of the Maharashtra Police Act. In the instant case also the Police Establishment Board at District level has made transfer of the applicant considering the serious allegations against the applicant as well as the negligence on the part of the applicant while discharging his duties. Being an exceptional case, in the public interest and on account of administrative exigency they took decision to transfer the applicant in view of the provisions of S.22N(2) of the Maharashtra Police Act. Therefore, in my opinion, the impugned order is in accordance with the provisions of Maharashtra Police Act, and there is no illegality in the same.

17. Learned Advocate for the applicant has relied upon the provisions of the Transfer Act, 2005. The applicant is serving as a Police Officer. A special statute i.e. Maharashtra Police Act is enacted and it regulates the transfer of the Police Personnel. Therefore, the provisions of the Transfer Act, 2005 are not attracted in the instant case. Therefore, I do not find substance in the submissions

advanced by the learned Advocate for the applicant in that regard.

18. Considering the abovesaid facts, in my opinion, the impugned order is in accordance with the provisions of Maharashtra Police Act and it has been issued in the larger interest and safety of the public. Therefore, there is no illegality in the impugned order. Hence no interference in it is called for. There is no merit in the O.A. Consequently, it deserves to be dismissed.

19. In view of the above discussion, O.A. stands dismissed with no order as to costs.

**(B. P. PATIL)**  
**MEMBER (J)**

**Place : Aurangabad**  
**Date : 30-08-2018.**