

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 329 OF 2023

(Subject – Transfer)

DISTRICT : AURANGABAD

1. Amit Krupakar Pathode,
Age: 32 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Manmad,
R/o: Plot No. 95/506, Maa Durga Nagar,
Bahadur, Nagpur, 4400 34,
2. Jitendra Yogeshwarrao Deshmukh,
Age: 35 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Manmad,
R/o : Plot No. 354, Omnagar,
Takkardar Chowk, Nagpur, 440 009.
3. Vijay Ganesh Jagnit,
Age: 33 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Manmad,
R/o: Plot Jhingabai Takli, Juni Basti,
Near Marathi School, Nagpur 440030.
4. Ravikanta Shirjor Parihar,
Age: 33 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Manmad,
R/o : Plot Plot No. 70, Gorewada Road,
Paloti Nagar, Katol Road, Nagpur.
5. Amol Shriramji Nichat,
Age: 32 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Igatpuri,
R/o: at Post Shirajgaon Kasaba,
Tq. Chandur Bajar, Dist: Amaravati.

6. Pramod Ganeshrao Ahake,
Age: 29 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Igatpuri,
R/o: Shivnagar Ward No. 3,
Pench Road, Parshivani, Nagpur,
7. Ashwin Ramlu Panelwar,
Age : 30 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Aurangabad,
R/o: Industrial Area, Shramik nagar,
Chandrapur
8. Arvindkumar Nilkanth Tawade,
Age: 27 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Igatpuri,
R/o: Babbgaon, at post Amgaon,
Dist. Gondiya,
9. Neeraj Ajay Shende,
Age: 25 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Igatpuri,
R/o: Anand Nagar, Near Regal
Celebration, Nagpur, 440 017,
10. Shital Suresh Saneshwar,
Age: 32 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Aurangabad,
R/o: Plot No. 46, Baba Deep Singh
Nari Road, Nagpur,
11. Bhushankumar Keshavrao Ukey,
Age: 36 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Aurangabad,
R/o : New Khalashi Line, Near Ambedkar
Statue, Kamthi, Tq. Kamthi,
Dist. Nagpur,

12. Rajeshkumar Khushal Bavistale,
Age: 35 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Nanded,
R/o: Bapera, Taluka: Tumsar,
Dist: Bhandara - 441915.
13. Manoj Roopraoji Wankhade,
Age: 32 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Nanded,
R/o: Devtalipura, Girajgaon Kasaba,
Tq. Chandurbazar, Dist. Amravati,
PIN: 444 801,
14. Jitendra Prahlad Sawwanlakhe,
Age: 30 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Aurangabad,
R/o: Chinchala, Post: Nagardhan,
Tq. Ramtek, Dist. Nagpur.
15. Sandip Rameshrao Gofane,
Age: 34 Yrs., Occ: Service
as Police Constable, Presently working
at Railway Police Station Nanded,
R/o: Tq. Tivsa, Dist. Amravati 444 903,
16. Mitesh Babarao Rathod,
Age: 30 Yrs., Occ: Police Naik
At Railway Police Station, Igatpuri,
Railway District- Aurangabad.

.... **APPLICANTS**

V E R S U S

1. **State of Maharashtra,**)
Through its Additional Chief Secretary,)
Home Department, Mantralaya,)
Mumbai- 400032.)

2.

The Additional Director General of Police (Railways),
Churchgate Railway Station,
First Floor, Mumbai-400020.

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3.

The Superintendent of Police (Railways),
Aurangabad.

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4.

The Superintendent of Police (Railways),
Nagpur.

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- ... RESPONDENTS

APPEARANCE : Shri Ajay Deshpande, Counsel for Applicants.

: Shri I.S. Thorat, Presenting Officer for
respondent authorities.

CORAM : Hon’ble Justice Shri V.K. Jadhav, Member (J)

RESERVED ON : 13.02.2024

DATE : 17.04.2024

O R D E R

1.

Heard Shri Ajay Deshpande, learned counsel appearing for the applicants and Shri I.S. Thorat, learned Presenting Officer appearing for respondent authorities.
2.

By way of filing the present Original Application, the applicants (16 in numbers) seeking directions to the respondents to effect their transfer from Aurangabad Railway District to Nagpur Railway District without loss of seniority and to evolve a

mechanism / formulate a policy / methodology to redress their grievance in connection with the aforesaid prayer of transfer.

3. Brief facts as stated by the applicants giving rise to the present Original Application are as follows :-

(i) The applicants had joined the services as Police Constable during the years 2014 and 2018. There were three Railway Districts in the State of Maharashtra and they were (i) Mumbai, (ii) Pune and (iii) Nagpur. The transfers and postings of the Police Constabulary up to the stage of Assistant Sub-Inspector of Police are within the respective Railway Police District only and inter-Railway District transfers are not contemplated. The respondent No. 4, who is the appointing, as well as, the disciplinary authority of the applicants having overall control over postings and transfers within the erstwhile Nagpur Railway District. All the applicants are hailing from Vidharbha Region and especially Nagpur and nearby revenue districts. They are born and brought up in Vidharbha Region and they have been rendered services in Vidharbha Region. So far as Nagpur Railway District is concerned, the Constable who joined with the office of Superintendent of Police Nagpur

Railway District has to work in all the Police Stations from Gondiya to Parali Vaijanath and Igatpuri Region, which comes under the jurisdiction of Nagpur Railway District.

(ii) By issuing G.R. dated 10.05.2018, Home Department, the State of Maharashtra has created a new Railway District i.e. Aurangabad Railway District, which has jurisdiction from Shegaon in Buldhana District up to Igatpuri in Nashik District. It has also included Nanded and Parali Vaijanath of Beed District. In view of the bifurcation by creating a new Aurangabad Railway District, as per G.R. dated 16.02.2019, 743 posts of policemen were surrendered from the establishment of Nagpur Railway District to Aurangabad Railway District. According to the applicants, the incumbents who eventually working at the place of their respective postings, were continued under respective Railway Districts, as it may be Nagpur Railway District or newly created Aurangabad Railway District. Consequently, it has been resulted into retention of incumbents in Aurangabad Railway District, who are hailing from Nagpur Region.

(iii) It is the further case of the applicants that there are no modalities prescribed under G.R. dated 16.02.2019 for enabling the transfers and postings of the incumbents posted in Aurangabad Railway District to Nagpur Railway District and *vice versa*. In consequence thereof, their families including school going children or spouses serving at or within the jurisdiction of Nagpur Railway District suffers extreme inconvenience. Hence, the present Original Application.

4. Learned counsel for the applicants submits that the applicants were working under respondent No. 4, majority of the area now forming part of newly created Aurangabad Railway District i.e. respondent No. 3. So far as transfer anywhere within Nagpur Railway District being an incidence of service, the applicants had no cause to make any grievance in relation thereto and the applicants are obliged to honour their respective transfers effected by respondent No. 4 within the erstwhile Nagpur Railway District, which eventually came to be bifurcated under the G.R. dated 10.05.2018 and new Aurangabad Railway District has been carved out by attaching / including some part of abutting Railway District. Such policy decision is very much within the jurisdiction of respondent No. 1.

5. Learned counsel for the applicants submits that the applicants were posted to work at the respective places as detailed in the title clause and in view of the issuance of G.R. dated 16.02.2019, the police force available under respondent No. 4 came to be bifurcated and 743 posts have been created under respondent No. 3. Learned counsel submits that the incumbents, who eventually working at the place of their respective postings, were continued under respective Railway Districts, as it may be Nagpur Railway District or newly created Aurangabad Railway District. It further resulted into retention of incumbents in Aurangabad Railway District, who are hailing from Nagpur Region. However, the incumbents, who were from Aurangabad Region and were allocated to Nagpur Railway District have been transferred back to Aurangabad Railway District. At present there is none who is from Aurangabad Railway District was allocated to Nagpur Railway District and still awaiting his posting under Aurangabad Railway District.

6. Learned counsel for the applicants submits that there are no modalities prescribed under G.R. dated 16.02.2019 for enabling the transfers and postings of the incumbents posted in Aurangabad Railway District to Nagpur Railway District and *vice versa*. In the given situation, the respondent No. 4 was pleased to

invite request applications from police officers and constabulary for effecting transfers from (i) Nagpur Railway District to Aurangabad Railway District, (ii) Aurangabad Railway District, (iii) Aurangabad Railway District to Aurangabad Railway District (iv) Nagpur Railway District to Nagpur Railway District under communication dated 15.09.2018 and such applications were instructed to be submitted through their respective controlling authorities and not directly or individually. In response to the said instructions, the applicants had submitted individual representations seeking their transfer under Nagpur Railway District by pointing out that their entire family residing within Nagpur Railway District and their children are taking education within the Nagpur Railway District. The said individual representation was not supposed to be submitted and those copies of the communications of the respective controlling authorities addressed to the respondent No. 4. It is the moderate expectations of the applicants that some workable solution would be evolved for accommodating the members of the Aurangabad Railway District, who are originally hailing from Nagpur Railway District. However, for the last more than two and half years, there has been no modalities worked out for posting members of Police Constabulary back within Nagpur Railway District, who are

working eventually under Aurangabad Railway District and who are desirous to get themselves posted under Nagpur Railway District.

7. Learned counsel for the applicants submits that the applicant Nos. 4 to 12 have joined the service although after bifurcation. The advertisement as published by respondent No. 4 does not refer about the deployment of the candidates on their selection in Aurangabad Railway District. Therefore, they have joined the service under respondent No. 3 some time during 2018 and all of them hailing from the places within the jurisdiction of Nagpur Railway District. They have no relations and blood relations at or nearby Aurangabad Railway District within its jurisdiction.

8. Learned counsel for the applicants submits that modalities and legal provisions, which are in existence in the shape of the Maharashtra Police Act may not be an appropriate solution. It would rather be an injustice to them, for no fault attributed to them. They have to forgo their seniority from 2014 and / or 2018 rendering them junior to the new entrants.

9. Learned counsel for the applicants submits that the respondent No. 4 has transferred as many as 40-50 incumbents

as per their request from Nagpur to Aurangabad by various orders. Even at the time of visit of the Director General of Police, the applicants herein had submitted representations through proper channel immediately after the said visit and had suggested solution as invited by the Additional Director General of Police during the said visit.

10. Learned counsel for the applicants submits that there at least two litigations filed on similar lines by groups of about 40 candidates, who were members of the Police Constabulary and pursuant to the orders passed by this Tribunal in those proceedings, the respondent authorities have recommended almost 80 incumbents under Nagpur Railway District. Learned counsel submits that there are about 40 vacancies existing under Nagpur Railway District against which the applicants can conveniently be accommodated. Learned counsel submits that the present Original Application thus deserves to be allowed by directing the respondents to effect the transfer of the applicants from Aurangabad Railway District to Nagpur Railway District without loss of seniority.

11. Learned Presenting Officer on the basis of affidavit in reply filed on behalf of respondent Nos. 2 and 3 submits that inter

district transfer of the policemen is not a birth right. It is just a welfare measure of the policemen and their families depending upon the administrative need of the unit where they are serving. They are expected to cooperate with the administrative exigencies of the department.

12. Learned Presenting Officer submits that Nagpur Railway District is now bifurcated by creating Aurangabad Railway District and the applicants posted to the Police Stations presently merged in newly created Aurangabad Railway District compulsorily. In view of the same, such type of inconvenience is unavoidable and they are expected to cooperate till the smooth functioning of new assignment instead of being agitative.

13. Learned Presenting Officer submits that the applicants at Sr. Nos. 1 to 3 & 12 were enlisted as Police Constable on 01.09.2014 and they were posted at Railway Police Stations Manmad from that date. After bifurcation of the erstwhile Nagpur Railway District and creation of a new Aurangabad Railway District in terms of G.R. dated 10.05.2018, 743 posts of policemen were surrendered from the establishment of Nagpur Railway District to Aurangabad Railway District by issuing another G.R. dated 16.02.2019. Learned P.O. submits that since

Manmad Railway Police Station was under the administrative control of Aurangabad Railway District, the officers and policemen serving at Railway Police Station Manmad were surrendered under the administrative control of Aurangabad Railway District. So far as the applicants at Sr. Nos. 4 to 11 are concerned, they are enlisted as Police Constable on 07.08.2018 on the establishment of Railway District Nagpur.

14. Learned Presenting Officer submits that the applications of policemen for transfer to newly bifurcated Railway Districts were called by the Superintendent of Police, Nagpur Railway District vide memorandum dated 25.09.2018. But since most of the applications were for transfer to Nagpur Railway District, requests could not be considered due to the administrative inconvenience and on the basis of seniority in their respective cadres; those policemen were transferred to Aurangabad Railway District. Learned P.O. submits that it is expected from the applicants working in the Police Force to keep their family members with them at the place of their posting. There are better facilities available in Aurangabad Railway District compared to facilities available in Vidarbha Region.

15. Learned Presenting Officer submits that the applicants, who are retained in Aurangabad Railway District can

be accommodated in near future by way of inter district transfer subject to condition of availability of vacancy in Nagpur Railway District and 5% quota of the sanctioned strength per year as per the instructions contained in G.R. dated 26.10.2017.

16. Learned Presenting Officer submits that as per the orders passed by this Tribunal in O.A. Nos. 996/2022 and 304/2022, 20 Constables are yet to be relieved on transfer to Vidarbha Region. Unless those Policemen are relieved, the cases of the present applicants cannot be considered. However, their request will be considered after the increase of manpower of Railway District Aurangabad.

17. Learned Presenting Officer on the basis of affidavit in reply filed on behalf of respondent No. 4 submits that there is no substance in the present Original Application. In the erstwhile Nagpur Railway District, the policemen had to work in all Police Stations from Gondia to Parali Vajjnath and Igatpuri Region, which comes under the jurisdiction of Nagpur Railway District. It was clear that while joining as Superintendent of Police Nagpur Railway District, the policemen can be transferred to any Police Station from Godia to Parli Vajjnath and Igatpuri Region.

18. Learned P.O. submits that it is not disputed that the applicants were working under the control of respondent No. 4 till the date of issuance of G.R. dated 10.05.2018 by the department of Home, Government of Maharashtra, by which the office of Superintendent of Railways Nagpur came to be divided into two separate divisions and after bifurcation of the Nagpur Railway District, all the applicants comes under the jurisdiction of Superintendent of Police Railways Aurangabad. In terms of the G.R. dated 16.02.2019, the staff and strength of earlier Superintendent of Police Railways Nagpur came to be divided. As per the old arrangement, the Superintendent of Police Railway Nagpur had total 1429 posts, out of which in terms of the G.R. dated 16.02.2019, total 743 posts have been abolished from the old existing staff and strength of the Superintendent of Police Railways Nagpur and the same are shifted to the newly created office of Superintendent of Police Railways Aurangabad. Thus the respondent No. 4 has its full staff and strength and there is no vacant post after the bifurcation of Nagpur district to absorb all the applicants at once. Learned P.O. submits that the applicants, who are retained in Aurangabad Railway District can be accommodated in near future by way of inter district transfer subject to the condition of availability of vacancies in Nagpur

Railway District and 5% quota of the sanctioned strength as per the instructions contained in the G.R. dated 26.10.2017.

19. Learned Presenting Officer submits that in terms of the orders passed by this Tribunal in the earlier litigations, Aurangabad Railway District has sent inter district transfer proposal dated 03.03.2023 for total 40 candidates/ applications herein for inter district transfer. The respondent No. 4 has accordingly accepted the said proposal for inter district transfer of the entire 21 candidates. However, 12 candidates have not yet been relieved from the office of respondent No. 3. There were unavailability of 40 vacant posts in the strength of Nagpur Railway District and hence, the respondent No. 4 has permitted only 33 candidates to join the duty and keep the remaining 7 candidates in waiting. Latter on the said 7 waiting candidates will be absorbed as per the availability of vacant post. Learned P.O. submits that there is no substance in the present Original Application and the same is liable to be dismissed.

20. Learned counsel for the applicants on the basis of the additional affidavit on behalf of applicant No. 5 submits that there are 30 vacancies under police constabulary under respondent No. 4 in view of communication dated 06.12.2023. In terms of the

communications of the Commissionerate of Police, Nagpur dated 11.07.2023 and 30.10.2023 respectively, as many as 15 constabulary working under respondent No. 4 are being absorbed under the Police Commissioner, Nagpur. However, all these 15 candidates to the best of applicant's knowledge are yet not relieved by respondent No. 4 and as soon as they are relieved, these vacancies would be immediately available. In addition to this, there are availability of vacancies on account of retirement and death of two Police Constabulary in the recent past December 2023 or thereabout on the establishment of respondent No. 4. There would be at least 11 vacancies of Police Constables under respondent No. 4 till December 2024. As on today i.e. on 24.01.2024, there are at least 50 clear vacancies made available on the establishment of respondent No. 4. Learned counsel submits that in view of the position borne from authorities themselves, the present applicants can be accommodated.

21. In the peculiar facts of the case, allocation of the services of the applicants permanently under respondent No. 3 and posting orders issued by respondent No. 4 without involving mechanism, those who are hailing from Nagpur Region has been impugned in the present Original Application. Initially there are three Railway Districts in the State of Maharashtra and they were

(i) Mumbai, (ii) Pune and (iii) Nagpur. By G.R. dated 10.05.2018 (Annexure A-1), issued by the Home Department of State of Maharashtra, Nagpur Railway District was bifurcated and a new Aurangabad Railway District was created. In view of the aforesaid bifurcations of Nagpur Railway District and creation of new Aurangabad Railway District, majority of the area now forming part of Aurangabad Railway District is remained within the jurisdiction of Nagpur Railway District. On careful perusal of the G.R. dated 10.05.2018, it appears that Aurangabad Railway District consisting of Manmad Sub-Division, which further consisting of Police Station Shegaon, Bhusawal, Chalisgaon, Nandurbar, Nashik Road and Igatpuri and Jalna Sub-Division consisting of Aurangabad, Nanded and Parali Vaijanath. Consequently, the applicants who are working in erstwhile Nagpur Railway District, which area consisting of Police Station Gondiya to Police Station Parali Vaijanath so also Igatpuri fallen exclusively within the Railway District Aurangabad.

22. On careful perusal of the G.R. dated 16.02.2019 (Annexure A-3) issued by the Home Department of State of Maharashtra, it appears that the police force available under respondent No. 4 i.e. the Superintendent of Police Railways, Nagpur came to be bifurcated and 743 posts of the policemen

were surrendered from the establishment of Nagpur Railway District to Aurangabad Railway District.

23. In the erstwhile Railway District Nagpur considering the vast area covered under Nagpur Railway District for example from Police Station Gondiya i.e. extreme end of Vidarbha Region to Police Station Parali Vaijanath i.e. from Marathwada Region and as such, there was no need of inter district transfers, when other two railway districts i.e. from Mumbai and Pune apparently the policemen from Nagpur and Aurangabad Region were mostly appointed and posted in erstwhile Railway District Nagpur. Unfortunately, however while creation of new Railway District Aurangabad, a care has not been taken to prescribe modalities, formulation policy / methodology to consider the grievance of the vast Police staff members working in the erstwhile Railway District Nagpur.

24. It appears that by memorandum dated 25.09.2018 (Annexure A-2), the office of respondent No. 4 has called upon the policemen to submit their request applications for inter district transfers and even though the applications came be submitted in response to the said memorandum by policemen including the applicants, for want of clear vacancies, the said attempt seems to

have been not worked out satisfactorily. In my considered opinion, even the G.R. dated 26.10.2017 may not be adequate to redress the grievance of the policemen like the present application, who are the sufferers because of the surrender of 743 posts from the establishment of Nagpur Railway District to Aurangabad Railway District. In terms of the G.R. dated 26.10.2017, 5% quota of the sanctioned strength is required to be considered for inter district transfer and the same also subject to the condition of availability of vacancy in Nagpur Railway District. In view of the same, it is just impossible to consider the grievance of the policemen like the present applications, who are working in Railway District Aurangabad due to the bifurcation of Nagpur Railway District and creation of a new Railway District Aurangabad in the year 2018, when there are no further hopes of their inter district transfers in near future.

25. In view of above discussion, this Tribunal left with no other choice but to direct the State of Maharashtra to formulate a separate policy in a time bound manner to redress the grievance of the policemen like the applicants, who have suffered due to the bifurcation of the Railway District Nagpur and creation of a new Railway District Aurangabad. Meanwhile, it is also necessary to direct the respondent authorities to consider the request

applications made by the applicants for their transfer from Aurangabad Railway District to Nagpur Railway District without loss of seniority by giving precedence to them. Hence, the following order:-

ORDER

- (i) The Original Application is hereby partly allowed.
- (ii) Respondent No. 1 i.e. the State of Maharashtra is hereby directed to formulate a separate policy to redress the grievance of the policemen like the present applicants, who have suffered due to the bifurcation of the Railway District Nagpur and creation of a new Railway District Aurangabad, within a period of six months from the date of this order.
- (iii) Meanwhile, the respondents are hereby directed to consider the request applications made by the applicants for their transfer from Aurangabad Railway District to Nagpur Railway District without loss of seniority by giving precedence to them.
- (iv) In the circumstances there shall be no order as to costs.
- (v) Original Application is accordingly disposed of.

PLACE : Aurangabad.
DATE : 17.04.2024

(Justice V.K. Jadhav)
Member (J)