

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.173 OF 2024

DISTRICT : MUMBAI

Sub.:- Transfer

Shri Pramod Shankar Bhosale.)
Age : 54 Yrs, Working as Incharge Police)
Inspector, Sanpada Police Station,)
Navi Mumbai Police Commissionerate,)
R/o. 9, Kamla Niwas, Dadar TT,)
Mumbai – 400 014.) **...Applicant**

Versus

1. The Commissioner of Police.)
Navi Mumbai, having office at)
CBD Belapur, Navi Mumbai.)
2. The Director General & Inspector)
General of Police, M.S, Mumbai,)
Having Office at Old Council Hall,)
Shahid Bhagatsingh Marg,)
Mumbai – 400 039.)
3. The State of Maharashtra.)
Through Additional Secretary,)
Home Department,)
having office at Madam Cama)
Road, Opp. Mantralaya,)
Mumbai – 400 032.)
4. The Chief Electoral Officer.)
Having Office at Mumbai.)
5. Vijay Hashanna Panhale.)
Age : Adult, Working as Police)
Inspector, Special Branch,)
Navi Mumbai, Police Commissionerate) **...Respondents**

Shri Arvind V. Bandiwadekar, learned Advocate for Applicant.

Smt. Archana B.K., Presenting Officer for Respondents No. 1 to 4.

Shri S. S. Dere, learned Advocate for Respondent No.5 is absent.

CORAM : Shri Debashish Chakrabarty, Member-A

DATE : 13.02.2025

J U D G M E N T

1. The Applicant who is serving in cadre of 'Police Inspector' has invoked provisions of 'Section 19' of 'The Administrative Tribunals Act 1985' to challenge 'Order' dated 31.10.2024 of 'Commissioner of Police, Navi Mumbai' by which he was transferred from post of 'Incharge Police Inspector' at 'Sanpada Police Station' to post of 'Police Inspector' at 'R.B.I Security Branch'.

2. The learned Advocate for Applicant states that Applicant was serving as 'Incharge Police Inspector' at 'Sanpada Police Station' since 25.06.2023. However; Applicant came to be suddenly transferred to post of 'Police Inspector' at 'R.B.I., Security Branch' and replaced by Mr. Vijay H. Panhale who was serving as 'Police Inspector' at 'Special Branch' by 'Order' dated 30.01.2024 of 'Commissioner of Police, Navi Mumbai'.

3. The learned Advocate for Applicant emphasized that Applicant had not completed 'Normal Tenure' of 2 Years as 'Incharge Police Inspector' at 'Sanpada Police Station'; as per provisions of 'Section 22N(1)(c)' of 'The Maharashtra Police Act 1951'.

4. The learned Advocate for Applicant clarified that 'Order' dated 31.10.2024 of 'Commissioner of Police, Navi Mumbai' had been passed against backdrop of directions in 'Election Commission of India' letter dated 21.12.2023 in exercise of 'Statutory Powers' under 'Section 22N(2)' of 'The Maharashtra Police Act, 1951'. Therefore; it was imperative to point out that though most 'Police Inspectors' whose names featured in 'Order' dated 30.01.2024 of 'Commissioner of Police, Navi Mumbai' had been transferred for implementation of directions in 'Election

Commission of India' letter dated 21.12.2023; few others like Applicant were suddenly transferred just by invoking provisions of 'Section 22N(2)' of 'The Maharashtra Police Act, 1951'.

5. The learned Advocate for Applicant drew attention to 'Order' dated 14.08.2021 of 'D.G.P. Maharashtra State, Mumbai' to lay stress on the fact that Shri Vijay H. Panhale who was serving as 'Police Inspector' at 'Special Branch' had been transferred from establishment of 'Commissioner of Police, Nashik' to 'Commissioner of Police, Navi Mumbai' at the same time when Applicant also came to be transferred from establishment of 'DGP, ACB Mumbai' to establishment of 'Commissioner of Police, Navi Mumbai'.

6. The learned Advocate for the Applicant emphasized that transfer of Applicant from post of 'Incharge Police Inspector' at 'Sanpada Police Station' and Shri Vijay H. Panhale who was serving as 'Police Inspector' at 'Special Branch' have thus been done only by invoking provisions of 'Section 22N(2)' of 'The Maharashtra Police Act, 1951'. Hence; there was no necessity for 'Mid Term' and 'Mid Tenure' transfer of Applicant together with many other transfers of 'Police Inspector' by 'Order' dated 30.01.2024 of 'Commissioner of Police, Navi Mumbai' for implementation of directions in 'Election Commission of India' letter dated 21.12.2023; but it was still done intentionally with motive to disguise it as being utmost necessary for implementation of directions in 'Election Commission of India' letter dated 21.12.2023.

7. The learned Advocate for Applicant also mentioned about earlier transfers of Applicant within establishment of 'Commissioner of Police, Navi Mumbai'; which were [a] 'Control Room' from 21.08.2021 to 02.03.2023, [b] 'Mahape Traffic Division' from 02.03.2023 to 23.06.2023, [c] 'Sanpada Police Station' from 25.06.2023 to 30.01.2024. Then; it was contended that without allowing Applicant to complete 'Normal Tenure' of 2 Years as 'Incharge Police Inspector' at 'Sanpada Police Station' as per

provisions of 'Section 22(N)(1)(c)' of 'The Maharashtra Transfer Act 1951'; he was once again suddenly transferred to post of 'Police Inspector' at 'RBI Security Branch'; only to accommodate Mr. Vijay H. Panhale who was serving as 'Police Inspector' at 'Special Branch'.

8. The learned Advocate for Applicant contended that nature of grievance stands accentuated by the fact that it was for first time that Applicant had got an opportunity to serve on an executive post as 'Incharge Police Inspector', at 'Sanpada Police Station'. So; in all fairness he should have been allowed to complete 'Normal Tenure' of '2 Years' as 'Incharge Police Inspector' at 'Sanpada Police Station' as per provisions of 'Section 22N(1)(c)' of 'The Maharashtra Police Act 1951'. The 'Mid-Term' and 'Mid-Tenure' transfer of Applicant does not fulfill criteria of either 'Exceptional Circumstances' or 'Administrative Exigencies' or 'Public Interest' as is required under provision of 'Section 22N(2)' of 'The Maharashtra Police Act 1951'. The earlier tenures of Applicant at [a] 'Control Room' from 21.8.2021 to 2.3.2023, [b] 'Mahape Traffic Division' from 02.03.2023 to 23.6.2023, and [c] 'Sanpada Police Station' from 25.06.2023 to 30.01.2024 were all comparatively short and thus amounted to frequent transfers of Applicant within establishment of 'Commissioner of Police, Navi Mumbai'. The transfer of Applicant to post of 'Police Inspector' at 'RBI Security Branch' was therefore clearly *malafide*, discriminatory, illegal and bad in law. Hence; Applicant should be transferred back to post of 'Incharge' 'Police Inspector' at 'Sanpada Police Station'.

9. The learned Advocate for Applicant even highlighted that transfer of 'Mr. V.M. Pansare' then 'DCP Zone-1' at 'Vashi' to post of 'DCP, Zone 2' at 'Panvel' was totally illegal; as it was again in jurisdictional area of 'Commissioner of Police Navi Mumbai' which falls mostly in 'Thane District' but partly in 'Raigad District'. Therefore; 'Mr. V.M. Pansare' then 'DCP Zone1' at 'Vashi' who had already completed 3 Years out of 4 Years in 'Thane District', should have been transferred out of both 'Raigad

District' and 'Thane District' and not retained in jurisdictional area of 'Commissioner of Police, Navi Mumbai'. However, exception was made to directions in 'Election Commission of India' letter dated 21.12.2023; by 'Commissioner of Police, Navi Mumbai' to transfer 'Mr. V.M. Pansare' to post of 'DCP, Zone-2, at 'Panvel'. Thus, 'Mr. V.M. Pansare' then 'DCP Zone1' at 'Vashi' continued to serve in jurisdictional area of 'Commissioner of Police, Navi Mumbai'. Important to note is that 'Mr. V.M. Pansare' then 'DCP Zone 1' at 'Vashi' had thus participated in meeting of 'PEB' held on 30.01.2024 under 'Commissioner of Police, Navi Mumbai' to collectively decide even about his own transfer to post of 'DCP, Zone 2' at 'Panvel'. Hence; such an influenced 'PEB' in its meeting held on 30.01.2024 could not have taken fair decision about 'Default Report' submitted by 'Mr. V.M. Pansare' then 'DCP Zone 1' at 'Vashi'.

10. The learned PO per contra relied on 'Affidavit-in-Reply' dated 05.03.2024 filed on behalf of 'Commissioner of Police, Navi Mumbai' to submit that 'PEB' in its meeting held on 30.01.2024 had considered in depth the serious grounds mentioned in 'Default Report' against Applicant which had been submitted by 'Mr. V.M. Pansare', then 'DCP, Zone 1' at 'Vashi' especially about his deficient performance as 'Incharge Police Inspectors' at 'Sanpada Police Station'. Therefore; Applicant was justiciably recommended by 'PEB' for transfer to post of 'Police Inspector' at 'RBI Security Branch' in exercise of 'Statutory Powers' under 'Section 22N(2)' of 'The Maharashtra Police Act 1951'. The 'Commissioner of Police, Navi Mumbai' had also transferred another 'Police Inspector' viz. Mr Ajay Bhosale by 'Order' dated 30.01.2024; again based on 'Default Report'. Hence; there was no bias or prejudice in transfer of Applicant who was one amongst (i) 02 'Deputy Commissioners of Police', (ii) 02 'Assistant Commissioner of Police', (iii) 20 'Police Inspectors', (iv) 18 'Assistant Police Inspectors' and (v) 20 'Police Sub-Inspectors', who were all recommended for transfers by 'PEB' in its meeting held on 30.01.2024. Nonetheless; it was fairly admitted that out of 20 'Police Inspectors' only 02 'Police Inspectors' who were Applicant and Mr. Ajay

Bhosale had to be transferred 'Mid-Term' & 'Mid Tenure' considering gravity of the respective 'Default Reports'. The 'Default Report' dated 27.01.2024 about Applicant was self-explanatory about particular incidents which show gross incompetency and ineffective handling of day to day 'Police Administration' as 'Incharge Police Inspector' at 'Sanpada Police Station'. Besides; no control was exercised by Applicant over work of sub-ordinate Police Officers. The Applicant had also failed to take preventive actions to curb illicit and illegal activities. Further; Applicant often showed dis-obedience towards instructions & directions given by 'Superior Officers'.

11. The Applicant evidently had not been transferred 'Mid Term' and 'Mid Tenure' from post of "Incharge Police Inspector" at 'Sanpada Police Station' to post of 'Police Inspector' at RBI 'Security Branch' for implementation of directions in 'Election Commission of India' letter dated 21.12.2023 on account of having completed tenure of 3 Years during last 4 Years in 'Revenue District' nor on grounds of serving in 'Home District'.

12. The Applicant undoubtedly has been frequently transferred within establishment of 'Commissioner of Police, Navi Mumbai' having served for short periods in [a] 'Control Room' from 21.8.2021 to 2.3.2023; [b] 'Mahape Traffic Division' from 2.3.2023 to 23.6.2023; [c] 'Sanpada Police Station' from 25.6.2023 to 30.1.2024. The tenure of Applicant on post of 'Incharge Police Inspector' at 'Sanpada Police Station' under establishment of 'Commissioner of Police, Navi Mumbai' was cut-short by invoking provision of 'Section 22N(2)' of 'The Maharashtra Police Act 1951' as also was earlier tenure of Applicant when he was serving as 'Police Inspector' 'Shahunagar Police Station' from 13.08.2013 to 22.07.2014 under establishment of 'Commissioner of Police, Navi Mumbai'. However; these short tenures are contrasted by the fact that Applicant has served for substantial tenures on posts which require higher degree of 'Investigating Skills'; such as when he happened to serve

as 'Police Inspector' in (a) 'EOW' under establishment of 'Commissioner of Police, Greater Mumbai' from 22.07.2014 to 11.05.2017 & (b) 'Head Office' in establishment of 'DGP ACB, Maharashtra State, Mumbai' from 12.05.2017 to 20.08.2021.

13. The Applicant while serving 'Incharge Police Inspector' at 'Sanpada Police Station' came to be replaced by Shri Vijay H. Panhale, who was serving on post of 'Police Inspector' at 'Special Branch' by 'Order' dated 30.01.2024 of 'Commissioner of Police, Navi Mumbai'; However; as post of 'Incharge Police Inspector' at 'Sanpada Police Station' had coincidentally fallen vacant during course of hearing of this OA No.173/2024 on account of transfer of 'Shri Vijay H. Panhale' to establishment of 'Commissioner of Police Greater Mumbai' on 22.08.2024 based on directions in 'Election Commissioner of India' letter dated 31.07.2024 against backdrop of 'General Elections Maharashtra Legislative Assembly: 2024', therefore Applicant had again requested to be transferred back to post of 'Incharge Police Inspector' at 'Sanpada Police Station' by submitting representation dated 25.08.2004; but it was not considered by 'Commissioner of Police, Navi Mumbai'. The Applicant thus continues to serve as 'Police Inspector' at 'RBI Security Branch'.

14. The post of 'Incharge Police Inspector' of 'Sanpada Police Station' is now held by some other 'Police Inspector' who has been found to be suitable based on collective decision taken by 'PEB' as constituted under 'Section 22J' of 'The Maharashtra Police Act 1951'; just as it done earlier in respect of Applicant who too had been found suitable to occupy the same post from 25.06.2023 to 30.01.2024. The Applicant cannot therefore claim any 'Statutory Right' to be transferred again only to post of 'Incharge Police Inspector' at 'Sanpada Police Station' in establishment of 'Commissioner of Police, Navi Mumbai'.

15. **The Hon'ble Supreme Court of India in B Varadha Rao v State of Karnataka, 1986 (3) Serv LR 60 (SC) : (1986) 4 SCC 624 : AIR**

1987 SC 287 has generally observed that transfer is an ordinary incidence of service and therefore does not result in any alteration of any condition of service to disadvantage of Government Servants.

16. **The Hon'ble Supreme Court of India in K. Sivankutty Nair v. Managing Director, Syndicate Bank, 1984 (2) Serv LR 13 (Kant); Chief General Manager (Telecom) v. Rajendra Ch. Bhattacharjee, (1995) 2 SCC 532 : SC 813 : (1995) 2 Serv LR 1** has pertinently observed that Government Servants cannot, as a matter of right seek transfer to a place of his choice. **The Hon'ble Supreme Court of India in UOI v SL Abbas, AIR 1993 SC 2444 : (1993) 4 SCC 357** has further specifically observed that which Government Servant is to be transferred where, is a matter to be decided by the appropriate Competent Authority.

17. The provisions of 'Section 22N(1)(d)' of 'The Maharashtra Police Act 1951' provides 'Normal Tenure' of 6 Years to 'Police Inspectors' in establishments of all 'Police Commissioners'. The Applicant as observed above has proven himself while in serving on posts which require higher degree of 'Investigative Skills'. Hence; appreciating the fact that Applicant has indeed been transferred frequently within establishment of 'Commissioner of Police, Navi Mumbai'; the 'Ends of Justice' would be adequately served; if suitability of Applicant is assessed afresh by 'PEB' in order to decide if he can now be transferred to any post where higher degree of 'Investigative Skills' are required and services of Applicant could be best utilized during remaining period of his 'Normal Tenure' of 6 Years in establishment of 'Commissioner of Police, Navi Mumbai'.

18. The case of Applicant however must not to be considered from earlier perspective of 'Default Report' submitted by Mr. V.M. Pansare then 'DCP Zone1' at 'Vashi' who as observed above had participated in meeting 'PEB' held on 30.01.2024 when Applicant came to be transferred to post of 'Police Inspector' at 'RBI' 'Security Branch'. The 'Sui-Generis' provision of 'Section 22K' of 'The Maharashtra Police Act 1951' makes it

imperative that decisions of 'PEB' are always taken not only in observance of Law; Rules & Regulations but without traces of any 'Bias' or 'Prejudice' and in appropriate manner which would send message of equity amongst all ranks of 'Police Personnel' defined under 'Section 2(11A)' of 'The Maharashtra Police Act 1951'. Hence, earlier transfer of Applicant to post of 'Police Inspector' at RBI 'Security Branch' is directed to be reviewed with an 'Open Mind' in next meeting of 'PEB' and thereupon an appropriate decision may be taken by 'Commissioner of Police, Navi Mumbai'. Hence, the following Order.

ORDER

- (I) The Original Application No.173 of 2024 is 'Partly Allowed'.
- (II) No Order as to Cost.

Sd/-

(DEBASHISH CHAKRABARTY)
Member-A

Mumbai

Date : 13.02.2025

Dictation taken by : A.G. Rajeshirke.

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