

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.1389 OF 2024

**DISTRICT : PUNE
SUBJECT : TRANSFER**

Shri Nilesh Mohan Rane,)
Aged 40 Yrs, Working as Police Head Constable,)
now transferred from Haveli Police Station,)
Pune [Rural], Pune, R/o. A/P Jawalarjun,)
Tal. Purandar, Dist. Pune.)... **Applicant**

Versus

The Superintendent of Police,)
Pune [Rural], Having Office at Chavan Nagar,)
Pashan Road, Pune-8.)... **Respondents**

Shri Arvind V. Bandiwadekar, learned Advocate for the Applicant.

Smt. Archana B. Kololgi, learned Presenting Officer for the Respondents.

CORAM : M.A. LOVEKAR, VICE-CHAIRMAN

RESERVED ON : 25.02.2025

PRONOUNCED ON : 27.02.2025

JUDGMENT

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Smt. Archana B.K., learned Presenting Officer for the Respondents.

2. The applicant holds the post of Police Head Constable. By order dated 19-3-2021 he was transferred from Loni Kalbhor to Haveli Police Station. On 10-6-2024 he submitted an application for transfer on request to L.C.B., Pune (Rural). By the impugned order dated 10-10-2024 he was transferred to Headquarter, instead. Hence, this Original Application.

According to the applicant, he was not due for transfer, he would have become due for transfer in May, 2025, considering the legal position that for constabulary normal tenure at one place of posting is 5 years, hence, the impugned transfer could not have been effected only on administrative ground without there being exceptional circumstances or public interest.

Further submission of the applicant is that if the P.E.B. is found not to have been constituted as per Section 22J-1 of the Maharashtra Police Act, 1951 the impugned order cannot be sustained. According to the applicant, he could not have been transferred on request except at L.C.B.(Rural) or Rajgad and thus his transfer to Headquarter is arbitrary and malafide.

3. Stand of the respondent is as follows. Minutes of meeting of the P.E.B. held on 9-10-2024 will show that the transfers were effected as per Section 22N(2) of the Act in public interest and on account of administrative exigencies and hence the same could not be said to be arbitrary or malafide. Constitution of the P.E.B. was as per Section 22J(1) of the Act.

Further specific stand of the respondent is as follows -

“Moreover it is surprising that Applicant seeks his transfer in the office of LCB(Local Crime Branch) due to family difficulties and education of his children, which is within the precincts of Headquarters, Pune Rural Police, Pune but does not want to serve in the office of Headquarters, Pune Rural Police, Pune.”

The Minutes of meeting of the P.E.B. are at Exhibit R-1. Main heading of the minutes reads as under -

“पोलीस अधीक्षक, पुणे ग्रामीण यांचे आस्थापनेवरील पोलीस अंमलदारांच्या प्रशासकीय / विनंती / संलग्नचे आदेश कायम करण्याबाबत गठीत जिल्हा स्तरावरील पोलीस आस्थापना मंडळ बैठकीचा
इतिवृत्तः”

Transfers mentioned in part -1 are shown to have been made on account of administrative exigencies. Heading of part 1 reads as under-

“सदर बैठकीत जिल्हा पोलीस आस्थापना मंडळाने प्रशासकीय निकड विचारात घेऊन यांचा विचार करून खालील पोलीस अंमलदारांच्या संलग्न असलेल्या आदेशातील त्यांचे नावासमोर दर्शविलेल्या ठिकाणी कायम नेमणुक देण्याबाबत एकमताने निर्णय घेतलेला आहे.”

Name of the applicant is not there in part 1. In part 2 of these minutes name of the applicant is at serial 96. The transfers of police personnel whose names are there in part 2 are also shown to have been made on account of administrative exigencies and on administrative grounds/ request. The heading of part 2 reads as under –

“तसेच सदर बैठकीत जिल्हा पोलीस आस्थापना मंडळाने प्रशासकीय निकड विचारात घेऊन यांचा विचार खालील पोलीस अंमलदारांच्या प्रशासकीय / विनंती बदल्या करण्याबाबत एकमताने निर्णय घेतलेला आहे.”

Perusal of the main heading of the minutes shows that in this meeting cases of transfers on administrative grounds/request were under consideration. The minutes, contrary to what is pleaded by the respondent, do not state that any of these transfers were made by taking recourse to Section 22N(2) of the Act.

Section 22N(2) of the Act reads as under -

“In addition to the grounds mentioned in sub-section (1), in exceptional cases, in public interest and on account of administrative exigencies, the Competent Authority shall make mid-term transfer of any Police Personnel of the Police Force :”

It was submitted by Smt Archana B.K., learned P.O. that order of transfer of the applicant was passed as a result of default committed by him. In support of this submission default report dated 21-8-2024 is placed on record. Detailed reply of the respondent does not specifically refer to any default report having been submitted against the applicant. The reply instead states-

“The Applicant is habitual in committing dereliction in duty by availing means which is unbecoming of a police official and faced many enquiries pursuant to his dereliction in duty. Considering the said undisciplined behavior of the Applicant while discharging his duties, he is transferred in the public interest”

To meet this assertion of the respondent the applicant has pleaded as follows -

“17. I say that it is stated that as per the provisions of the Maharashtra Police Act, 1951 if Police personnel is found guilty of indiscipline and bad behaviour it is considered as unbecoming of a Police officer. I say that expressly it is not stated that it is applicable to me. I say that however, if the Respondent wants to apply the same in my case then my transfer on that ground effected by him is without competence. This is clear from the proviso to section 22N(2) when on such ground to effect transfer is the prerogative of the State Government only.”

Proviso to Section 22N(2) reads as under -

“Provided that, in case of any serious complaint, irregularity, law and order problem the highest Competent Authority can make the transfer of any Police Personnel without any recommendation of the concerned Police Establishment Board.]”

This proviso supports stand of the applicant.

4. Contrary to what is contended by the respondent, it is apparent that the impugned order was not passed by taking recourse to Section 22N(2) of the Act. This can be gathered from various headings in the minutes of meeting of the P.E.B. Hence, the impugned order cannot be sustained. The order of transfer dated 10-10-2024 qua the applicant is quashed and set aside. The respondent shall pass the consequential order of posting of the applicant within 7 days from today. No order as to costs.

Sd/-
(M.A. Lovekar)
Vice-Chairman

Place: Mumbai
Date: 27.02.2025
Dictation taken by: N.M. Naik.

Uploaded on: _____