

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**ORIGINAL APPLICATION NO.1076 OF 2024
With
ORIGINAL APPLICATION NO.1346 OF 2024
With
ORIGINAL APPLICATION NO.1357 OF 2024**

**DISTRICT: PUNE
Subject : Transfer**

1) O.A.No.1076/2024

Shri. Balasaheb Bhikaji Hulge)	
Age-56 Years)	
Working as Inspector (State Excise))	
Bhum Division, Dharashiv.)	
Residing at -Empire State, Phase -I Block No. G-501,)	
Chichwad, Pune.)	... Applicant

Versus

1) State of Maharashtra)	
Principal Secretary)	
Home Department (State Excise))	
Madam Kama Marg, Hutatma Rajguru Chouk)	
Mantralaya, Mumbai- 400 032.)	
2) Commissioner)	
State Excise, Old Custom House)	
2nd Floor, Shaid Bhagatsing Marg)	
Fort, Mumbai-400 023.)	... Respondents

2) O.A.NO.1346/2024 OF 2024 & O.A.NO.1357/2024

Atul Baburao Patil)	
Age. 47 years, Occ. PSI)	
R/at. Padali Khurd, Tal- Karveer,)	
Dist- Kolhapur)	... Applicant

Versus

- 1) The State of Maharashtra)
Through Secretary)
Home Department (State Excise),)
Mantralaya, Mumbai 400032.)
- 2) The Superintendent of State Excise)
2nd Floor, Old Jakat House)
Shahid Bhagat Singh Road, Fort,)
Mumbai 400023.)
- 3) The Commissioner of State Excise,)
Maharashtra State, 2nd Floor, Old Jakat House,)
Shahid Bhagat Singh Road, Fort, Mumbai 400023).)
- 4) Balasaheb Bhikaji Hulge)
Age- 56 Yrs, Occ- Inspector (State Excise))
R/at. Empire State, Phase- I,)
Block No. G-501, Chinchwad, Pune.)...**Respondents**

Smt. Punam Mahajan, learned Counsel for the Applicant in O.A.No.1076/2024

Shri S. S. Dere, learned Counsel for the Applicant in O.A.Nos.1346 & 1357 of 2024.

Shri A. J. Chougule, learned Presenting Officer for the Respondents in O.A.No.1076/2024.

Shri D. R. Patil, learned Presenting Officer for the Respondents in O.A.No.1354/2024 and O.A.No.1357/2024

Smt. Punam Mahajan, learned Counsel for the Respondent No.4 in O.A.No.1354/2024 and O.A.No.1357/2024

CORAM : Hon'ble Shri M. A. Lovekar, Vice-Chairman

Reserved on : 11.03.2025

Pronounced on : 18.03.2025

J U D G M E N T

Heard Smt. Punam Mahajan, learned Counsel for the Applicant in O.A.No.1076/2024, Shri S. S. Dere, learned Counsel for the Applicant in O.A.Nos.1346 & 1357 of 2024, Shri A. J. Chougule, learned Presenting Officer

for the Respondents in O.A.No.1076/2024, Shri D. R. Patil, learned Presenting Officer for the Respondents in O.A.No.1354/2024 and O.A.No.1357/2024 & Smt. Punam Mahajan, learned Counsel for the Respondent No.4 in O.A.No.1354/2024 and O.A.No.1357/2024

2. By this common judgment this group of three Original Applications is being disposed of since the issues involved therein are interconnected.

3. Para Nos.2 to 12 of order dated 30.01.2025 which set out chronology as well as rival contentions, read as under :-

“2. In OA No. 1076/2024, the impugned order is dated 17.08.2024. By this order, the Applicant is transferred from Lokranjan Brewries, Hadapsar, Pune to Bhum Division, Dharashiv. The Applicant had made a Representation dated 07.07.2024 giving therein various options for his suitable posting. The Applicant was aware while making this Representation that due to change in Staffing Pattern, he was likely to be transferred.

3. It is pointed out that while passing order dated 17.08.2024, some persons who were serving elsewhere have been accommodated in Pune District and also given postings in proper Pune.

4. The case of the Applicant is that he is suffering from Cancer and he would be retiring on 31.05.2025.

5. When the Applicant filed this OA, one post in Flying Squad-3, Pune was vacant. The Applicant sought Interim Relief in the form of direction to keep the said post vacant during pendency of the OA. Pursuant to this request, Interim Order was passed on 28.08.2024 directing the Respondents to keep the post at Flying Squad-3 vacant.

6. It is a matter of record that the order posting Mr. A.B. Patil on promotion (who is Applicant in OA 1357/2024) to Flying Squad-3 was passed on 10.10.2024. When it was realized that while passing order dated 10.10.2024, Interim Order' passed in OA 1076/2024 was lost sight of, order dated 10.10.2024 was cancelled on 11.10.2024.

7. It is also a matter of record that Mr. A.B. Patil (Applicant in OA 1357/2024) was transferred to Phaltan by modifying posting order dated 15.10.2024. This order is challenged in OA 1357/2024.

8. There is one more OA filed by Mr. A.B. Patil bearing OA No. 1346/2024, In this group of 3 OAs bearing Nos. 1076/2024, 1346/2024 and 1357/2024, 'Interim Order' was passed on 25.10.2024. By this

'Interim Order', the effect and implementation of order dated 15.10.2024 in OA 1356/2024 qua the Applicant was stayed till next date. It is submitted that this "Interim Order" subsists till today.

9. It is submitted by learned PO as well as Shri S.S. Dere, learned Advocate for Mr. A.B. Patil that since the Applicant in OA 1076/2024 is suffering from Cancer, transfer to Flying Squad-3 would be physically onerous for him and if he agrees for being posted in Baramati Division, it would be lot less onerous because the post at Baramati is a supervisory post.

10. In Reply, it is submitted by learned Advocate for Mr. Hulge that it would not be possible for the said Applicant to go to Baramati from Pune on every working day, considering the fact that he is taking treatment in Ruby Hospital at Pune.

11. It may be observed that the applicant in OA 1076/2024 has prima-facie shown two compelling grounds to post him at Flying Squad-3. It is submitted that serving in Flying Squad-3 entails visits to area having radius of about 30 kms. and the Applicant can perform such duty because he has been performing identical duty at Dharashiv since last few months. According to Shri Dere, learned Advocate for Mr. A.B. Patil, radius of the area which the Applicant would be required to visit if attached to Flying Squad-3 is not 30 kms, but 120 kms.

12. The Respondents are directed to consider posting the Applicant in OA 1076/2024 at Flying Squad-3. It may be reiterated that he has prima-facie made out a strong case for acceding to his request."

4. On 11.03.2025 further order was passed in this group of matters para No.2 of which reads as under :-

"2. In OA No.1076/2024 on instructions, learned PO has made a statement that pursuant to order dated 30.01.2025 passed by this Tribunal the proposal to transfer the Applicant in the said OA to Flying Squad-3 was placed before the Competent Authority i.e. Hon'ble Deputy Chief Minister and the Competent Authority has accorded approval to the same. So far as this aspect of the matter is concerned, it is submitted by learned Advocate Shri S.S. Dere for the Applicant that in OA No.1344/2024 that proposal was forwarded and approval accorded only on the basis of order dated 30.01.2025 passed by this Tribunal. Further grievance of the Applicant in OA No.1346/2024 is that when interim Order' was passed in OA No.1076/2024, the Applicant did not bring it to the notice of the Tribunal that in fact there were 2 posts vacant on which these Applicants could have been suitably accommodated."

5. It was argued by Advocate Shri S. S. Dere that the Applicant in O.A.No.1076/2024 could not have claimed a particular posting as a matter of

right and viewed from this angle O.A.No.1346/2024 filed by him deserves to be dismissed. In support of this submission reliance was placed on the judgment of the Hon'ble Orissa High Court dated 21.01.2025 in **W.P.(C) No.30756/2024 (Kishore Biswal V/s Union of India & Others)** wherein it is held :-

“Thus, in view of the settled principle of law that posting of an employee is an incidence of service and it is for the employer to decide as to where a particular employee is to be posted keeping in view public interest as well as administrative exigency and the employee has no vested right to get a posting at a particular place or choose to serve at a particular place for a particular time and it is within the exclusive domain of the employer to determine as to what place and for how long the services of a particular employee are required and (since) this Court has limited jurisdiction to interfere with the same unless it is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provision.”

6. Further reliance is placed by Advocate Shri S. S. Dere on **Shilpi Bose (Mrs) And Others V/s State of Bihar & Others, 1991 Supp (2) Supreme Court Cases 659** wherein the Hon'ble Supreme Court has observed :-

“The Respondents have continued to be posted at their respective places for the last several years, they have no vested right to remain posted at one place.”

7. Both the above referred rulings are distinguishable. While passing the order dated 30.01.2025 it was observed that the Applicant in O.A.No.1076/2024 was suffering from Cancer, he was taking treatment in Ruby Hospital at Pune and he would be retiring on superannuation on 31.05.2025.

Further, in order dated 30.01.2025 the chronology was also discussed. The record shows that on account of compelling health grounds and imminent date of retirement on superannuation, the Applicant was requesting for a suitable posting i.e. a 'Flying Squad-3'.

8. I have also quoted order dated 11.03.2025. This order shows that pursuant to order dated 30.01.2025 proposal to transfer the Applicant in O.A.No.1076/2024 to 'Flying Squad-3' was placed before the Competent Authority i.e. the Hon'ble Deputy Chief Minister and the Competent Authority has accorded approval to the same.

9. For the reasons discussed hereinabove, O.A.No.1076/2024 filed by Shri B. B. Hulge is disposed of by observing that the Competent Authority has already accorded approval to post him at 'Flying Squad-3, Pune' as per his request. The said order shall be issued promptly. In the factual background discussed above, O.A.Nos.1346/2024 and 1357/2024 are also disposed of. It would be open to the Respondents to consider on its own merits, posting Shri A. B. Patil at 'Flying Squad-3, Pune' on retirement of Shri B. B. Hulge on superannuation.

10. No order as to costs.

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

Place: Mumbai
Date: 18.03.2025.
Dictation taken by: V. S. Mane
D:\VSM\VSO\2025\Judgment 2025\SB\O.A.1076, 1346 & 1357 of 24 Transfer.doc