

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

**COMMON ORDER IN ORIGINAL APPLICATION NOS. 1249,
1250 & 1251 ALL OF 2024**

(1) ORIGINAL APPLICATION NO. 1249 OF 2024

DISTRICT : CHH. SAMBHAJINAGAR

Amol s/o Uddhav Kamble,)
Age : 38 years, Occu. : Police Constable,)
Buckle No. 1511,)
R/o : -Police Colony, Police Station Gangapur,))
Tq. Gangapur, Dist. Chh. Sambhajinagar.) **APPLICANT**

W I T H

(2) ORIGINAL APPLICATION NO. 1250 OF 2024

DISTRICT : CHH. SAMBHAJINAGAR

Tensing s/o Mangilal Rathod,)
Age : 33 years, Occu. : Police Constable,)
Buckle No. 221,)
R/o : -Mayur Park, Gangapur, Vaijapur Road,))
Tq. Gangapur, Dist. Chh. Sambhajinagar.) **APPLICANT**

W I T H

(3) ORIGINAL APPLICATION NO. 1251 OF 2024

DISTRICT : CHH. SAMBHAJINAGAR

Abhijit s/o Rajeshwar Dahale,)
Age : 40 years, Occu. : Police Constable,)
Buckle No. 449,)
R/o : Jaising Nagar, Lasur Road, Gangapur,))
Tq. Gangapur, Dist. Chh. Sambhajinagar.) **APPLICANT**

V E R S U S

01. **The Director General of Police (M.S.)**)
State Police Headquarter,)
Shahid Bhagatsing Marg, Kulaba,)
Mumbai-400 005.)

02. **The Special Inspector General of Police,**)
 Chhatrapati Sambhaji Nagar, Range)
 Chhatrapati Sambhajnagar, Near)
 Youth Hostel, Vishrambag Colony,)
 Padampura Road, Chhatrapati)
 Sambhajnagar-431001.)
03. **The Superintendent of Police,**)
 Chhatrapati Sambhaji Nagar (Rural),)
 T.V. Center Road, Cidco, N-10,)
 Chhatrapati Sambhajnagar (Rural))
04. **The Police Inspector,**)
 Police Station, Gangapur, Near Nagar)
 Parishad, in front of up-zilla Rugnalay,)
 Chhatrapati Sambhajnagar-431109.)

... COMMON RESPONDENTS

APPEARANCE : Shri O.D. Mane, Counsel for the Applicants in
all these O.As.

: Shri D.M. Hange, Presenting Officer for
respondent authorities in all these O.As.

CORAM : **SHRI A.N. KARMARKAR, MEMBER (J)**

RESERVED ON : **27.03.2025**

PRONOUNCED ON : **03.04.2025**

C O M M O N - O R D E R

1. By filing the present Original Applications, the applicants have prayed for quashing and setting aside impugned transfer order dated 04.10.2024.

2. Since in all these matters issues raised and the prayers made are identical, I have heard all these matters together and I deem it appropriate to decide all these O.As. by this common order.

3. Brief facts of the cases :-

O.A. No. 1249/2024

According to the applicant, as per order dated 30.05.2023 he was transferred from Police Station Shivur to Police Station Gangapur. Then as per the order dated 04.10.2024, he was transferred from Police Station Gangapur to PHQ Chhatrapati Sambhajinagar (Rural) only after the period of 17 months. According to the applicant, during his tenure at Police Station Gangapur, there was no allegation against him nor enquiry was initiated. The respondent No. 3 all of sudden issued impugned mid-term transfer order on 04.10.2024, which is in violation of Section 22N of the Maharashtra Police Act. On the basis of said order, the concerned in-charge Police Inspector of Police Station Gangapur immediately relieved the applicant on 05.10.2024. The applicant is relying on G.R. dated 23.04.2010. According to him there are certain guidelines given in connection with the general transfer/mid-term transfer. According to him, as per guidelines at Sr. No. 13 of the said G.R., the competent authority

has to take prior approval of immediate superior officer before passing the order of mid-term transfer. The applicant has raised a ground that the impugned transfer order is passed on formal approval of the Police Establishment Board. No specific reason for transfer is mentioned in the said order. The guidelines of G.R. dated 23.04.2010 are not followed. Normal tenure of posting of Police Constabulary is five years. Due to mid-term transfer, family of the applicant is facing hardship.

O.A. No. 1250/2024

According to the applicant, as per order dated 30.05.2023 he was transferred from Police Station Wadod Bazar to Police Station Gangapur. Then as per the order dated 04.10.2024, he was transferred from Police Station Gangapur to PHQ Chhatrapati Sambhajinagar (Rural) only after the period of 17 months. According to the applicant, during his tenure at Police Station Gangapur, there was no allegation against him nor enquiry was initiated. The respondent No. 3 all of sudden issued impugned mid-term transfer order on 04.10.2024, which is in violation of Section 22N of the Maharashtra Police Act. On the basis of said order, the concerned in-charge Police Inspector of Police Station Gangapur immediately relieved the applicant on 05.10.2024. The applicant is relying on G.R. dated 23.04.2010.

According to him there are certain guidelines given in connection with the general transfer/mid-term transfer. According to him, as per guidelines at Sr. No. 13 of the said G.R., the competent authority has to take prior approval of immediate superior officer before passing the order of mid-term transfer. The applicant has raised a ground that the impugned transfer order is passed on formal approval of the Police Establishment Board. No specific reason for transfer is mentioned in the said order. The guidelines of G.R. dated 23.04.2010 are not followed. Normal tenure of posting of Police Constabulary is five years. Due to mid-term transfer, family of the applicant is facing hardship.

O.A. No. 1251/2024

According to the applicant, as per order dated 26.05.2022 he was transferred from PHQ, Chhatrapati Sambhajinagar (Rural) to Police Station Gangapur. Then as per the order dated 04.10.2024, he was transferred from Police Station Gangapur to PHQ Chhatrapati Sambhajinagar (Rural) only after the period of 27 months. According to the applicant, during his tenure at Police Station Gangapur, there was no allegation against him nor enquiry was initiated. The respondent No. 3 all of sudden issued impugned mid-term transfer order on 04.10.2024, which is in violation of Section 22N of the Maharashtra Police Act. On the

basis of said order, the concerned in-charge Police Inspector of Police Station Gangapur immediately relieved the applicant on 05.10.2024. The applicant is relying on G.R. dated 23.04.2010. According to him there are certain guidelines given in connection with the general transfer/mid-term transfer. According to him, as per guidelines at Sr. No. 13 of the said G.R., the competent authority has to take prior approval of immediate superior officer before passing the order of mid-term transfer. The applicant has raised a ground that the impugned transfer order is passed on formal approval of the Police Establishment Board. No specific reason for transfer is mentioned in the said order. The guidelines of G.R. dated 23.04.2010 are not followed. Normal tenure of posting of Police Constabulary is five years. Due to mid-term transfer, family of the applicant is facing hardship.

4. Respondent Nos. 1 to 4 have filed their affidavit in reply. According to the respondents, the impugned mid-term transfer order of the applicants is passed under Section 22N(2) of the Maharashtra Police Act and it is passed considering the administrative exigencies and in the public interest. Police Establishment Board has recommended the transfer of the present applicants and adverse reports were received regarding

the conduct of the applicants. Respondent No. 2 has followed necessary procedure before passing impugned order.

It was noticed that the applicants were having connection with the culprits, who were involved in illegal activities. According to the respondents, the applicants were also found supplying information about actions to be taken against them. This behavior of the applicants was such which would lead to disturb law and order situation during the elections and other festivals. It is denied by the respondents that they have not followed the direction given in G.R. dated 23.04.2010. According to them, the respondent No. 3 is the competent authority to transfer on the recommendation of Police Establishment Board. It is also contended by respondents that the Police Inspector, Gangapur Police Station has requested for transfer of the present applicants vide letter dated 21.08.2024. It was decided to forward the said letter /misconduct report for preliminary inquiry to Divisional Enquiry Branch. Thus the respondents have submitted that the present O.As. deserve to be dismissed.

5. No rejoinder affidavit is filed by the applicants.

6. I have heard Shri O.D. Mane, learned counsel for the applicants in all these O.As. and Shri D.M. Hange, learned

Presenting Officer for the respondent authorities in all these O.As. Both the parties have submitted as per their respective contentions.

7. Learned counsel for the applicants has submitted that the adverse report submitted by Police Inspector of Police Station, Gangapur against the applicants is imaginary. He wants to bring favorable Policeman at that Police Station. He has also submitted about violation of G.R. dated 23.04.2010 and particularly guidelines regarding absence of approval of immediate superior authority.

Learned Presenting Officer has submitted that it was noticed that the present applicants were supplying information to the persons, who are involved in illegal activities in respect of action which is to be taken. So the concerned Police Inspector has forwarded default report. Police Establishment Board was formed and the concerned board after perusal of the record has recommended the transfer. So the necessary procedure has been followed.

8. It is undisputed fact that the applicants were transferred without completion of their requisite tenure. The only submissions raised by the learned counsel for applicants about

non-obtaining the approval of immediate superior authority in view of the guidelines at Sr. no. 13 of G.R. No. 23.04.2010. It would be appropriate to reproduce the said para No. 13 of G.R. dated 23.04.2010 :-

“क्र. (१३) वर्षभरात अथवा सर्वसाधारण बदल्यांच्या वेळीदेखील विनंतीवरून अथवा अन्य कारणामळे बदली करावयाची असल्यास आणि अशा कर्मचाऱ्याचा विहीत कालावधी पूर्ण हाण्यापूर्वी बदली असल्यास सक्षम प्राधिकाऱ्यांच्या वरीष्ठ प्राधिकाऱ्यांची पूर्व मान्यता बदली अधिनियमानुसार घेतल्यानंतरच अशा बदल्या करण्यात याव्यात.”

9. Learned Presenting Officer has submitted that the proper procedure under Section 22 N of the Maharashtra Police Act was followed before transfer order. Learned P.O. has invited my attention to Section 22N(2) and also its explanation. It will be appropriate to reproduce the said provisions :-

“22N. Normal tenure of Police Personnel, and Competent Authority

(1)

(2) *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:*

Explanation. - For the purposes of this sub-section expression “Competent Authority” shall mean:-

Police Personnel

Competent Authority

(a)

(b)

(c)

(d)

(e) *Police Personnel upto the rank of Police Inspector for transfer within the District.* *Police Establishment Board at District Level:*

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."

10. It is apparent that the applicants were serving at Gangapur Police Station, Dist. Chh. Sambhajinagar and they were transferred to PHQ Chh. Sambhajinagar. On perusal of the explanation to Section 22N (2), it is clear that the Police Establishment Board at District Level is the competent authority for mid-term transfer of Police Personnel up to the rank of Police Inspector for transfer within the District. Section 22N of Maharashtra Police Act shows about mid-term transfer of any Police Personnel in exceptional cases, in public interest and on account of administrative exigencies in addition to the grounds mentioned in sub-section (1).

11. The respondents have placed on record minutes of Police Establishment Board meeting dated 03.10.2024. It appears that the meeting of Police Establishment Board was held in connection with the mid-term transfer on administrative ground on the basis of default reports. In-charge Police Officer

seems to have forwarded default report regarding adverse behavior, which would cause hurdle in maintaining law and order situation. There is a reference in the minutes of meeting that the present applicants having connection with the persons involved in illegal activities in respect of action to be taken and this fact was noticed. The concerned Police Inspector has forwarded letter that due to this activity of the applicants, there will be hurdle in law and order situation and even in religious functions. Copy of default report of concerned Police Inspector-Kumarshing Rathod (page No. 34 of paper book) is also placed on record.

The concerned Police Inspector has specifically mentioned that the applicants are having connection with the persons who are involved in illegal activities and the applicants supplying information in respect of action to be taken. One of the specific instance dated 16.08.2024 is mentioned in the said default report, which occurred during the patrolling duty. There is reference of said incident in detail in minutes of Police Establishment Board meeting, which also shows involvement of these applicants to lower down the image of Police Department. This letter also shows that the applicants were given opportunity, since the concerned Inspector has taken charge to show

improvement and change their behavior, but it was in vain. So it is clear that the Police Establishment Board has recommended the transfer of present applicants pending preliminary enquiry in public interest and considering the administrative exigencies.

12. Learned counsel for the applicants has submitted that no reasons for transfer are mentioned in the impugned order. It appears that the reference of decision by Police Establishment Board is mentioned in the said order. Even G.R. relied upon by the applicants is also referred in it. Though the reasons for transfer are not mentioned in detailed, still the detailed reasons are appearing in the minutes of Police Establishment Board meeting and also in default report. Learned counsel for the applicants has also submitted as per guideline No. 13 of G.R. dated 23.04.20210, no approval of the immediate superior authority has been taken before transfer. It is already discussed in foregoing paragraphs that the Police Establishment Board at district level is the competent authority to make mid-term transfer.

Learned P.O. submits that since there is specific provision in Section 22N of the Maharashtra Police Act and that

prevail upon the G.R. It cannot be said that there is no substance in such submission of learned Presenting Officer.

13. Thus for the reasons stated in foregoing paragraphs, it cannot be said that the impugned order of transfer is illegal. Thus the present Original Applications deserve to be dismissed. Hence, the following order :-

ORDER

- (i) All these Original Applications stand dismissed.
- (ii) There shall be no order as to costs.
- (iii) Original order be kept in O.A. No. 1249/2024 and true copy of the order be kept in other two O.As. i.e. O.A. Nos. 1250 & 1251 both of 2024

(A.N. Karmarkar)
Member (J)

PLACE : Aurangabad
DATE : 03.04.2025

KPB S.B. O.A. No. 1249/2024 & 2 Ors. ANK Transfer