

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

ORIGINAL APPLICATION NO. 1186 OF 2024

DISTRICT : PARBHANI

Deepak S/o Laxman Dantulwar,)
Age : 48 years, Occu. : Police Inspector,)
Presently working as Police Control Room Parbhani,))
R/o : -Ramnagar Patti behind Power House,)
Jintur Road, Parbhani, Dist. Parbhani.)

.... APPLICANT

V E R S U S

01. **The Director General of Police,**)
Maharashtra State, Mumbai,)
Shahid Bhagatsing Marg, Kulaba,)
Mumbai-400001.)
02. **The Deputy Inspector General of Police,))**
Nanded Range Nanded, Kautha,)
Latur Road, Nanded Dist. Nanded-431746)
03. **The Superintendent of Police,**)
Parbhani, Station Road, Parbhani,)
Tq. Sailu, Dist. Parbhani)
04. **The Sub Divisional Police Officer Sailu,))**
Tq. Sailu, Dist. Parbhani.)
05. **Sandip s/o Anandrao Borkar,**)
Age : Major, Occu. Assistant Police Inspector,))
R/o Police Station Manwat, Tq. Manwat,))
Dist. Parbhani.)

... RESPONDENTS

APPEARANCE : Shri D.T. Devane, Counsel for the Applicant.

: Shri D.M. Hange, Presenting Officer for
respondent authorities.

: None present for respondent No. 5, though
duly served.

CORAM : SHRI A.N. KARMARKAR, MEMBER (J)
RESERVED ON : 19.03.2025
PRONOUNCED ON : 08.04.2025

ORDER

1. By filing the present Original Application, the applicant has prayed for quashing and setting aside impugned transfer order dated 24.05.2024, thereby attaching the applicant to Police Control Room, Parbhani from Manwat Police Station and also order dated 07.08.2024, thereby transferring the applicant from Manwat Police Station to Police Control Room, Parbhani. The applicant has also prayed for his posting at Police Station Manwat, Tq. Manwat, Dist. Parbhani.

2. According to the applicant, he came to be appointed as Police Sub-Inspector by undergoing the selection process by Maharashtra Public Service Commission in the year 2005. Thereafter, he was promoted as Assistant Police Inspector in the year 2012 and then promoted as Police Inspector in the year 2018. On 05.07.2023, the applicant was transferred from District Special Branch, Parbhani to Manwat Police Station on administrative ground. He was working sincerely on the said post. One Crime bearing No. 159/2024 was registered at

Manwat Police Station in respect of illegal transportation of sand through one Hyva Truck No. MH-40-Y-2068 against the owner and driver viz. Anil Uddhavrao Dahe. Head Constable Dhananjay Gangadhar Gaikwad lodged report against him. He has investigated the crime. Then one Akshay Sampatrao Shinde, who was running the business of crusher plant, has filed one complaint against Grade Police Sub-Inspector viz. Gajanan Rambhau Jantre at Police Station Manwat u/s 7, 7A, 12 of Prevention of Anticorruption Act, 1988 (FIR No. 251/2024). He was using the same vehicle for his business as which was purchased on bond paper from one Deepak Kishanrao Mirpude.

On the basis of default report of Sub-Divisional Police Officer, Sailu, the services of the present applicant were attached to the Control Room Parbhani vide order dated 24.05.2024. There was no default on the part of the applicant, as C.R. No. 159/2024 was rightly investigated. The applicant joined the said post under the presumption that the said order was temporary in nature and he will be reposted. According to him, he filed application dated 01.08.2024 for the same relief to respondent No. 3. According to him, there is no legal provision for attachment of services of Police Officers. Then the applicant was transferred to Control Room Parbhani vide order dated

07.08.2024, where actually he was working. An offence vide C.R. No. 251/2024 was registered against Grade PSI Shri Gajanan Jantre and that cannot be default on the part of the present applicant. Secondly, C.R. No. 159/2024 is also investigated under the control of present applicant as per law. The concerned vehicle owner was also arrested in it and vehicle was also seized. The present applicant has also submitted his detailed reply to the alleged default on 06.06.2024 in response to the memorandum issued by respondent No. 3 dated 22.05.2024. There was no order of competent court for releasing seized vehicle. The Regional Dy. RTO imposed fine on the said vehicle and correspondence was going on. The present applicant was never received any memo in respect of his working.

3. The applicant is challenging the impugned orders on the ground of absence of provisions regarding attaching of services of the applicant to other Police Station and the same is contrary to the guidelines issued by the respondent No. 1 by Circular dated 30.07.2024. Secondly, this is mid-term and mid-tenure transfer of the applicant that too without following the due procedure. There is no administrative exigency or exceptional circumstances for transferring the applicant. Another ground is raised that the present applicant was holding

additional charge of Home Dy. S.P. and was the Member Secretary of Establishment Board while working at Parbhani. When the applicant was sent to attend Court work at Aurangabad on 07.08.2024, respondent No. 3 hurriedly manage to hold the meeting for transfer of the applicant by giving charge of the post of the applicant to one Shri Vivek Patil, though regular DY.S.P. (City) was available at Head Quarter. So impugned order was issued hurriedly, prejudicially to accommodate respondent No. 5.

4. Respondent No. 3 has filed his affidavit in reply. According to him, the impugned order dated 24.05.2024 was passed on the basis of report of Sub-Divisional Police Officer, Sailu and impugned order dated 07.08.2024 was issued on the basis of recommendation of Police Establishment Board Parbhani. According to him, prior to 24.05.2024, several default memos were issued to the applicant regarding administrative lapses while performing duty at Manwat Police Station. It was considered by Police Establishment Board in the meeting dated 07.08.2024. Only registration of Crime No. 159/2024 and Crime No. 251/2024 is not only reason for transfer, but the applicant has not followed the guidelines issued by his superiors in day to day affairs of Police Station. It was found that the applicant was

not having administrative control over the subordinates and that create atmosphere in Police Station which gave a room to his subordinate to indulge in unlawful activities. It was transpired that one Muntashir Khan Pathan was given free access into the premises of Manwat Police Station and he was found interfering into the affairs of Police Station. Averment of the applicant about imposing of fine on seized vehicle is not supported by document. The said vehicle was in the premises of Manwat Police Station. It was duty of the applicant to given necessary instructions to the subordinates. Release order of vehicle was passed by the learned JMFC Manwat. It is nowhere mentioned the fact of fine by Dy. RTO Parbhani. Not only the matter of applicant, but also some other matters were to be considered. So in absence of applicant PI, Vivekanand Balbhimrao Patil was given the charge of DY.S.P. (Home) to hold Police Establishment Board meeting.

5. The applicant has filed rejoinder affidavit and reiterated the contentions as raised in the Original Application. In addition to this, it is mentioned that the respondents have issued memos for alleged six defaults, which are in the month of March, April and May 2024. The applicant was not able to submit explanation in respect of all these default memos, as the Loksabha Elections were going on in the month of April-May

2024 and he was engaged in bandobast. The Members of meeting of Police Establishment Board have just mentioned the defaults and then the applicant is transferred. There is no discussion in respect of seriousness of defaults nor, an opportunity of hearing was given to the applicant. The Members of Police Establishment Board has also not verified the allegations made in the said defaults by going through the record. Since he was immediately transfer, he was not given immediately reply to the alleged defaults and he was not possible to verify the record. He has submitted information received under Right to Information Act in respect of six defaults including that of non-execution of NBW warrant regarding investigation in crime of theft of motorcycle. In respect of default No. 3, the applicant has submitted that during the said period he was engaged for Bandobast on account of visit of Hon'ble Prime Minister and Hon'ble Chief Minister on 20.04.2024 & 22.04.2024 respectively. In respect of 4th default, the applicant has contended that complainant and accused in that matter were having friendly relations. Informant as stated on affidavit about filing of false complaint, C-summery report was filed, which is approved by the Court. So far as default No. 5 is concerned, he has obtained one information under RTI, which shows that there is no any entry in the Station Diary at Police Control Room Parbhani showing late entry of this applicant in

the meeting dated 09.05.2024. In respect of default No. 6 is concerned, the applicant has contended that he collected information under RTI, which shows registration of traffic cases including 12 cases of drunk and drive cases. According to him, there is no substance in the allegations of alleged defaults. The minutes of Police Establishment Board (for short 'PEB') does not reveal that they have verified record.

6. Subsequently, the applicant has placed on record some documents. It is information pertaining to alleged defaults with short affidavit.

7. I have heard Shri D.T. Devene, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities. Both the parties have submitted as per their respective contentions.

8. According to learned counsel for the applicant, when he was serving as Police Inspector at Manwat Police Station, one default report was submitted by Sub-Divisional Police Officer, Sailu on 22.05.2024, on which basis the applicant was order to be attached to Police Control Room, Parnbhani. Subsequently, the applicant has moved representation for reposting in view of Circular dated 30.07.2024, but instead of it, the applicant was

transferred to Police Control Room, Parbhani as per impugned order dated 07.08.2024. According to the applicant, no reasons are given in the impugned order of transfer. In the minutes of PEB, reference of C.R. No. 159/2024 for the offence punishable U/s 379 r/w 34 of IPC and C.R. No. 251/2024 for the offence punishable U/s 7, 7-A, 12 of Prevention of Anti-Corruption Act, 1988 are referred. But the present applicant is not responsible for these Crimes. Some other defaults were also shown in the same minutes of meeting. But these other defaults seem to have been referred intentionally to transfer the applicant. According to him, he has made available some information received under Right to Information Act, which shows that there is no substance in allegation that NBW warrants are not executed or that he was late while attending meeting on 09.5.2024. He has also made available information in respect of default No. 6 that several cases under Motor Vehicle Act were registered during his tenure.

On the other hand, learned Presenting Officer has submitted that learned Sub-Divisional Police Officer has communicated report that there was no proper control of the applicant upon subordinates and on the basis of default report, he was transferred. According to him, there is no reason for the

Tribunal to go into the information received under Right to Information Act. According to him, proper procedure is followed for transfer of the applicant.

9. It is undisputed fact that the applicant was transferred to Police Station Manwat in the month of July, 2023. It is also undisputed fact that by order dated 24.05.2024, he was attached/deputed to Police Contraol Room, Parbhani and subsequently he was shown to be transferred on the basis of recommendation of PEB vide order dated 07.08.2024. It appears that after initial order dated 24.05.2024 of attaching or deputing the services of the applicant to Police Control Room, Parbhani, present applicant has forwarded representation dated 01.08.2024 for his reinstatement on the ground of absence of provisions for attaching his services in view of Circular dated 30.07.2024. The said Circular dated 30.07.2024 is placed on record at page No. 39 of paper book. It appears that immediately meeting of PEB was held on 07.08.2024 and recommendation was made for transfer of the applicant.

10. Impugned order dated 07.08.2024 shows about reference of meeting of PEB dated 07.08.2024, reference of letter of Sub-Divisional Police Officer, Sailu dated 22.05.2024 and also of Dy. Superintendent of Police, Anti-Corruption Bureau,

Parbhani. It is true that the reasons for transfer are not mentioned in the impugned order dated 07.08.2024. It cannot be ignored that the reasons regarding defaults on the part of applicant were referred to in the minutes of meeting of PEB. There is reference of C.R. No. 159/2024 for the offence punishable U/s 379, 34 of IPC with allegations of carrying sand in truck illegally and vehicle driver was apprehended by Grade Police Sub-Inspector viz. Gajanan Rambhau Jantre. It is mentioned that the vehicle, which was seized in that offence, was lying in Police Station for one and half month and no proper instructions were given for early disposal of it. Second default was that routine procedure was not adopted due to which Grade Police Sub-Inspector-Gajanan Jantre got an opportunity to demand bribe. There is also reference of C.R. No. 251/2024 registered against Grade Police Sub-Inspector-Gajanan Jantre under Section 7,7-A, 12 of Prevention of Corruption Act. Copy of FIR of C.R. No. 251/2024 is placed on record, which was registered against Grade Police Sub-Inspector-Gajanan Jantre and one Muntashir Khan Kabirkhan. There are allegations in the FIR that in order to file say in the Court for releasing Truck, a demand of bribe of Rs. 70,000/- was made and said Muntashir Khan was found accepting Rs. 50,000/-. There is also reference of default that image of Police Department is maligned due to

absence of administrative control over the subordinates by the applicant. It appears from the letter of Dy. Superintendent of Police, Anti-Corruption Bureau, Parbhani dated 27.05.2024 that during interrogation with Grade Police Sub-Inspector it was transpired that he has engaged co-accused Muntashir Khan Pathan to do his personal work. It was also transpired that co-accused Muntashir Khan Pathan was having his presence in the Police Station since last 15 years. Being a Police Inspector, the applicant was expected to take steps, if any stranger is having movements in the Police Station.

11. So far as default in respect of non-execution of a single NBW is concerned, the applicant has placed on record document at Annexure-A (81 of paper book) that in the month of January, 2024 to March, 2024 about 212 NBW were served. So far as another default about non-registration of cases of Drunk and Drive is concerned, the applicant has placed on record document at Annexure-C (page No. 84 of paper book), which shows that four cases under Section 185 of Motor Vehicle Act were registered in January, 2024. But it has to be noted that default was pertaining to non-registration of cases of Drunk and Drive as per instruction on 01.05.2024. There was a default regarding late attendance for the meeting regarding crime dated

09.05.2024, the applicant has placed on record information under RTI (page No. 83 of paper book), which shows that there is no entry about late attendance in the Control Room Parbhani.

12. Other default is about avoidance to visit at spot in respect of C.R. No. 205/2024 for the offence punishable U/s 457, 380 of IPC, the applicant has placed on record information collected under RTI in respect of this default, which shows that his successor has forwarded explanation on 10.06.2024 that the concerned officer was on Bandobast on 20.04.2024 due to visit of Hon'ble Prime Minister at Parbhani and due to visit of Hon'ble Chief Minister at Parbhani on 22.04.2024. It cannot be ignored that the applicant was posted from the date of registration of C.R. No. 205/2024 dated 21.04.2024 till 24.05.2024. So the applicant could have visited the spot. Another default is referred in minutes of meeting of PEB that though the offence in C.R. No. 204/2024 should have been under Section 392 of IPC, which was registered under Section 380 of IPC. The successor of the present applicant has forwarded explanation on 10.06.2024 that the concerned officer was on Bandobast on 20.04.2025 due to visit of Hon'ble Prime Minister in Parbhani District. It is also mentioned in the report that the informant and accused in that crime were having friendly relations and informant filed affidavit

about filing of false report. But the applicant could have also forwarded the explanation in respect of said default, since he was at the same Police Station for a month before impugned order.

13. The PEB has specifically considered reports about presence of stranger for illegal activities in the Police Station, which affects the reputation of Police Station. So it can be said that the decision of transfer of the applicant was taken by the PEB in public interest and on account of administrative exigency. Explanation to Section 22N of Maharashtra Police Act shows that the Police Establishment Board at District Level is the competent authority to make mid-term transfer.

14. The respondents have contended in their affidavit in reply that in absence of the applicant, the charge was required to be given to another officer i.e. Police Inspector Mr. Patil to form Police Establishment Board. It cannot be said that on this basis there was irregularity or illegality in forming Police Establishment Board.

15. Learned counsel for the applicant has relied on the judgment of Principal Seat of this Tribunal at Mumbai in **O.A. No. 828/2019 & 3 Ors. (Shri Chetan D. Mundhe & Ors. Vs. The State of Maharashtra and Anr.)**. It appears that in one stroke all 379 police personnel including the applicants in that matters were

transferred without examining the case of each person. So this judgment can be said to be distinguished on facts. He has also relied on judgment of Principal Seat of this Tribunal at Mumbai in **O.A. Nos. 621 and 622 both of 2022 (Mahesh S. Salunke & Anr. Vs. The State of Maharashtra and Anr.)**. In that matter the Deputy Commissioner of Police informed to C.P. Mumbai that the applicant is not punctual and his performance is not satisfactory. So the fact regarding alleged default is different in that matter. Secondly it is already discussed that the PEB has considered about involvement of third person in the premises of Police Station where the applicant is working as Police Inspector, which affects the reputation of Police Department. So the said judgment is also not helpful to the applicant.

16. For the reasons discussed in foregoing paragraphs, the present Original Application deserves to be dismissed. Hence, the following order :-

ORDER

The Original Application stands dismissed. There shall be no order as to costs.

(A.N. Karmarkar)
Member (J)

PLACE : Aurangabad
DATE : 08.04.2025
KPB S.B. O.A. No. 1186 of 2024 ANK Transfer