

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 635 OF 2024  
(Subject:- Transfer)**

**DISTRICT:- PARBHANI**

- 1. Smt. Shaikh Farah D/o Shaikh Gafoor,** )  
Age: 36 Yrs., Occ: Service as Police Head Constable )  
on the establishment of S.P., PCR Unit, Nanded, )  
at Parbhani, R/o House No. 481, Building No. 41, )  
Police Head Quarters, Nanalpeth, Parbhani. )
- 2. Smt. Shakuntala Pandurang Ekade,** )  
Age: 45 Yrs., Occ: Service as Police Head Constable, )  
On the establishment of S.P., PCR Unit, Nanded, )  
at Parbhani, R/o House No. 63/1, Lokasha Nagar, )  
Jintoor Road, Parbhani. )

**)...APPLICANTS**

**V E R S U S**

- 1. The State of Maharashtra,** )  
Through the Additional Chief Secretary, )  
Home Department, Mantralaya, )  
Mumbai-400 032. )
- 2. The Additional Director General of Police,** )  
(Protection of Civil Rights), )  
MS, Mumbai. Shahid Bhagatsingh Marg, )  
Colaba, Mumbai 400 001. )
- 3. The Police Superintendent,** )  
(Protection of Civil Rights), Nanded Range, Nanded, )

**)...RESPONDENTS**

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**APPEARANCE :** Shri Ajay S. Deshpande, learned counsel for  
the applicants.  
: Shri A.P. Basarkar, learned Presenting  
Officer for the respondent authorities.  
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**CORAM :** **Shri A.N. Karmarkar, Member (J)**

**RESERVED ON :** **06.03.2025.**

**PRONOUNCED ON :** **17.04.2025.**  
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## **ORDER**

By filing this Original Application the applicants have prayed for quashing and setting aside the impugned orders dated 19.06.2024 and 20.06.2024 respectively and also seeking directions to the respondents to permit the applicants to discharge their duties at Protection of Civil Rights Wing at Parbhani.

2. The applicant No.1 namely Smt. Shaikh Farah Shaikh Gafoor joined service as Police Constable in the establishment of Superintendent of Police, Parbhani on 29.07.2006. She was promoted subsequently in the year 2013 and 2021 as Police Naik and Police Head Constable respectively. She has never suffered adversity during her career. Her Confidential Reports (C.Rs.) are 'A' -on and average.

Similarly the applicant No.2 namely Smt. Shakuntala Pandurang Ekade joined her service as Police Constable in the establishment of Superintendent of Police, Parbhani on 24.12.2002 and she was promoted subsequently in the year 2011 and 2019 as Police Naik and Police Head Constable respectively. She has also never suffered adversity during her career. Her C.Rs. are 'A'- on and average.

According to them, the respective District Heads of the Police machinery all throughout the State were requested to seek

willingness of the incumbents for performing the duties under Protection of Civil Rights (in short "P.C.Rs.") Wing. Those who possess a good track report are selected for being deployed in P.C.Rs. Wing and selection was competitive in nature. Deployment of a Government servant on deputation is governed by the G.R. dated 17.12.2016 issued by the General Administration Department (GAD). There were some changes in the policy by way of G.R. dated 16.02.2018. Once the incumbent is selected for being appointed on deputation, such deputation lasts generally up to 5 years. According to the applicants, the period of deputation is required to be specified in the order in view of G.R. referred above.

One Smt. Triveni Ganpatrao Chopde, who was also deployed along with applicants on deputation under the control of respondent No.2, seems to be the cause for cancelling their deputation surreptitiously. Said Smt. Triveni G. Chopde was of a complaining nature. She was in the habit of making bald and baseless allegations against her colleagues and against her superior. She has reported a grievance against Assistant Police Inspector (A.P.I.) Smt. Manisha Pawar. She made allegations against the said API of requiring her to perform the personal work at the residence of API Smt. Pawar. In the said complaint, Smt. Triveni has also made allegations against these applicants regarding abuses. There was no reason for the applicants to abuse

her. It has been reported that the discrete enquiry into the allegations of Smt. Triveni Chopde has been made by the respondent No.3. The applicants were never called during such enquiry, still to the best of their knowledge, none of the colleagues except complainant Smt. Triveni Chopde supported her applications. It is on this background, the impugned orders dated 19.06.2024 and 20.06.2024 came to be passed. Those impugned orders refer to lapses attributable to the applicants causing cancellation of their deputation. Lapses are required to be dealt with in accordance with law. Similarly, deputation and surreptitious cancellation is also construed as an act falling within the mischief of transfer as contemplated under the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short 'Transfer Act, 2005'). On 20.06.2024 at the close of office hours, the impugned orders were served upon the applicants intimating about cancellation of their deputation.

3. The respondent No. 2 has filed affidavit in reply (page No. 33). According to this respondent, both the applicants were in the establishment of Superintendent of Police, Parbhani. They were on deputation in P.C.R. Unit, Parbhani only. The Transfer Act, 2005 is not applicable to the applicants. One Mrs. Triveni Chopde has made complaint on 11.06.2024 about her mental

torture at the PCR, Unit Parbhani. She has stated about instigation by these applicants to API Manisha pawar and accordingly she was mentally tortured by API Manisha Pawar. The Superintendent of Police, PCR, Nanded has conducted a preliminary inquiry into said complaint. Both the applicants were called and the complaint was shown to them on 13.06.2024. Their statements were recorded. The Superintendent of Police, PCR, Nanded informed this respondent No.2 that if present applicants, Mrs. Triveni Chopde and API Manisha Pawar are kept together then there is possibility that their differences may lead to huge problem and it is likely to cause major untoward incident. It was recommended by S.P., P.C.R. Nanded to return these LPCs to their respective original units.

This respondent has also contended that the applicants were informed vide order dated 23.11.2022 that if their performance in the department is not satisfactory and if they found indiscipline, they will be immediately returned to their parent unit without any prior notice/intimation. It is submitted that paragraph No.5 (d) (5) of G.R. dated 17.12.2016 is in the same manner. Accordingly, the applicants were immediately relived on 19.06.2023 so as to join at their parent department i.e. Superintendent of Police, Parbhani. The applicants have not disclosed these facts in the Original Application.

4. Learned counsel for the applicants has submitted that the present applicants were temporarily deputed as per order dated 23.11.2022 at PCR Unit, Parbhani. They were relieved from PCR Unit, Parbhani only after one and half years. According to them impressions was created in respect of lapses on the part of the applicants. He has invited my attention to enquiry report (page No. 43) and submitted that the allegation was made against one A.P.I. Smt. Manisha Pawar, but the said officer is retained at the said unit and the applicants are made scapegoat. It is submitted that overall career record of the applicants is good. While transferring the applicants to parent institute, the provisions of Section 22N of Maharashtra Police Act is not complied with. According to him, the deputation can be said to be transfer. For that purpose he has relied on the G.R. dated 23.04.2010.

5. According to learned P.O., while deputing the applicants at PCR Unit, Parbhani they were informed by mentioning clause No.3 that if the work of the applicants is not found satisfactory or if any indiscipline is found, they will be relieved so as to join parent unit. He has invited my attention to the said order (page Nos. 13 & 14). He has submitted that on the basis of complaint of Smt. Triveni Chopde preliminary enquiry was conducted and report was forwarded to superior for further action.

According to him the applicants were called during the course of that enquiry and then the order came to be passed.

6. It is undisputed fact that both the applicants were working in the establishment of Superintendent of Police, Parbhani. They were deputed at PCR Unit, Parbhani. It is apparent from the record that both the applicants were called for recording their statements during the course of preliminary enquiry on the basis of complaint of Smt. Triveni Chopde. It is necessary to reproduce clause No.3 in the order dated 23.11.2022 by which the applicants were posted on deputation at PCR Unit, Parbhani. The said clause No.3 is as under:-

“ ३. ना.ह.सं. विभागात ज्यांचे काम समाधानकारक दिसून आले नाही, तसेच ते आपले कामात कुचराई करीत असल्यास बेशिस्त वागत असल्याचे निदर्शनास आल्यास किंवा त्यांनी सादर केलेल्या माहिती प्रमाणे खोटी व चुकीची आढळल्यास त्यांना कोणत्याही पूर्व सूचनेशिवाय तात्काळ मुळ घटकात परत करण्यात येईल. अशी उपरोक्त कर्मचाऱ्यांना लेखी समज देवून ना.ह.सं. पथक येथे हजर होणेकरीता कृपया कार्यमुक्त करावे.”

It would be proper to reproduce revised clause No. 5(d) 5 of the G.R. dated 16.02.2018 which is pertaining to procedure for deputation.

“ ड) परि.क्र.५. (ड) (५) पुढीलप्रमाणे सुधारीत करण्यात येत आहे:-

प्रतिनियुक्तीवर सेवा घेणाऱ्या कार्यालयास काही विशिष्ट कारणास्तव विहित कालावधी संपण्यापूर्वी प्रतिनियुक्तीवर आलेल्या अधिकाऱ्यास त्याच्या मूळ प्रशासकीय विभागास/कार्यालयाकडे परत पाठवणे आवश्यक असल्यास, त्या आस्थापनेवरील सक्षम प्राधिकाऱ्याने तसे समर्थनीय कारण स्पष्ट करून त्याला/तिला परत पाठवण्यासाठी यथास्थिती संबंधित प्रशासकीय विभागास/कार्यालयास तीन महिन्यांची पूर्वसूचना

(नोटीस) देणे आवश्यक राहिल. तथापि, या संदर्भात विशिष्ट कारणे नमूद करून उदा. अनियमितता, अफरातफर, कर्तव्यच्युती, इत्यादी कारणे नमूद करून प्रतिनियुक्तीचा कालावधी तात्काळ संपुष्टात आणता येईल.”

7. Learned counsel for the applicant has submitted that the API Manisha pawar against whom there was complaint of LPC Smt. Triveni Chopde is retained at same place. However, the communication by S.P., PCR Unit, Nanded to Additional Director General of Police, Protection of Civil Rights, Maharashtra State, Mumbai shows that preliminary enquiry was conducted by Deputy Superintendent of Police, P.C.R. Unit Nanded against the applicants, LPC Smt. Triveni Chopde and API Smt. Manisha Pawar and he has recommended posting of API Pawar at somewhere else and also recommended to return the services of the applicants along with LPC Smt. Triveni Chopde in their respective parent units.

8. Enquiry report is placed on record which is at page No. 43 wherein LPC Smt. Triveni Chopde has specifically stated about mental harassment by API Smt. Manisha pawar on the instigation of present applicants. LPC Smt. Triveni Chopde has also stated during enquiry that she was made by API Smt. Manisha Pawar to do her domestic works. One of the witness No. 11 also stated that there was dispute between the applicants and LPC Chopde in connection with the printer. In that connection the meeting was



taken with these three LPCs and they were informed to maintain discipline otherwise default report would be submitted. One witness No. 5 also stated in respect of dispute between both the applicants and LPC Smt. Chopde in connection with obtaining print out and also on the count of computer in the office. At that time this witness No.5 convinced all three LPCs and since then there was no communication amongst them. Enquiry report seems to have been concluded with remark that there used to be disputes frequently amongst both the applicants and LPC Smt. Chopde. He opined that if all three LPCs are allowed to do their duties in the same unit, then it will result in serious consequences. So it will not be proper to keep all three LPCs at same place. The enquiry officer also concluded that Smt. Triveni Chopde has also made the enquiry officer to hear recorded conversations in her phone between Smt. Triveni Chopde and API Smt. Manisha Pawar which is pertaining to direction of API Pawar to do her domestic work and this fact is not denied by API Pawar in that recorded conversation.

Normally the head of institute/department expects that the work in their institute will go on smoothly and there would not be dispute amongst employees. Smt. Triveni Chopde has also stated in her statement during enquiry that once she thought to end her life due to mental harassment of applicants and API Pawar. So

episodes in respect of frequent dispute amongst applicants and Smt. Triveni Chopde cannot be said to be disciplined behavior. So incidents of frequent disputes between Smt. Triveni Chopde and other LPCs i.e. applicants cannot be said to be acceptable things. In the deputation order also specific clause No.3 is there that the employee deputed will be reposted to parent department in case indiscipline activity or unsatisfactory work is noticed. Revised clause No. 5(d) 5 of G.R. dated 16.02.2018 also shows that deputation can be cancelled immediately in case of irregularities, misappropriation and dereliction of duty. Considering the conclusion in the preliminary enquiry report and for the reasons stated above, the impugned orders dated 19.06.2024 and 20.06.2024 cannot be said to be improper and illegal.

9. Learned counsel for the applicant has placed reliance on the judgment of this Tribunal in case of **Nitin Surendra Shelar Vs. the State of Maharashtra & Ors. (O.A.No. 95/2021).**

In that matter the transfer order was challenged. It was also mentioned in the said order that the applicant has been temporarily attached to Police Head Quarters, Ahmednagar. He has also relied in a case of **Jaykumar S/o Ramesh Koli Vs. the Superintendent of Police-Lohmarg (O.A.No. 512/2023).** In that matter also the transfer order was titled as temporary attachment and it was submitted in that matter that the transfer under the

title of temporarily attached would amount to transfer. But in present matter there is no said order of attachment to some other institute. In respect of order of said attachment (संलग्न) the applicant has filed G.R. dated 23.04.2010. The facts in both the judgments referred by the applicant are different and those are not useful to the case of the present applicants.

10. For the reasons stated above, the Original Application deserves to be dismissed. Hence, the following order:-

**ORDER**

- (A) The Original Application is hereby dismissed.
- (B) In the circumstances there shall be no order as to costs.

**MEMBER (J)**

**Place:-Aurangabad**

**Date : 17.04.2025**

SAS- O.A. 635/2024 Transfer ANK.