

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 968 OF 2023

(Subject:- Relieve)

DISTRICT:-JALNA

- 1. Rambhau Devichand Chavan,**)
Age: 52 Yrs., Occ: Service as Police Head)
Constable,)
R/o. Mauli Nagar, Ambad Road, Jalna.)
Mob : 9049392651.)
E-mail : rambhauchavan1975@gmail.com)
- 2. Digambar Ramkishan Barle,**)
Age : 48 Yrs., Occ: Service as Police Head)
Constable,)
R/o Police Colony, Quarter No. 150/61.)
Jalna.)
Mob : 7057625528)
E-mail : digambarbarle@gmail.com.)
- 3. Ravindra Shivram Birkaylu,**)
Age: 45 Yrs., Occ: Head Constable,)
R/o Ram Nagar, Police Colony, Jalna.)
Mob : 9921237111)
E-mail: ravibirkaylu@gmail.com.)
- 4. Gajanan Eknath Kakad,**)
Age : 47 Yrs.. Occ: Service as Head)
Constable,)
R/o Ram Nagar, Suvarnakar Nagar, Jalna.)
Mob : 9764381012)
E-mail : Sairajkakad12@gmail.com.)
- 5. Damodar Ramdas Gawai,**)
Age: 38 Yrs., Occ: Driver,)
Kadim Jalna Police Station,)
R/o Yogesh Nagar, Near Goldy Lodge,)
Ambad Raod, Jalna.)
Mob: 8830181830)
E-mail : damodhar.gawai1985@gmail.com)

6. Parmeshwar Bapurao Kadam,)
 Age : 35 Yrs., Occ: Police Head Constable/)
 Driver in Motor Transport Department,)
 S.P. Office, Jalna.)
 R/o At Post: Revgaon, Jalna.)
 Mob: 9970522731)
 E-mail: parmeshwarkadam486@gmail.com) **APPLICANTS**

V E R S U S

1. The Superintendent of Police,)
 Jalna.)

2. The State of Maharashtra,)
 Through the Additional Chief Secretary,)
 Home Department, Mantralaya,)
 Mumbai-400 032.)

3. The Additional Director General of)
Police (Transport),)
 MS, Mumbai.)
 Shahid Bhagatsingh Marg,)
 Colaba, Mumbai 400 001.) **RESPONDENTS**

WITH

ORIGINAL APPLICATION NO. 115 OF 2024

(Subject:- Relieve)

DISTRICT:-JALNA

1. Vijay S/o Babanrao Nikalje,)
 Age : 36 Yrs., Occu: Service)
 (as Police Constable, Police Head)
 Quarter, Jalna),)
 R/o: Suman Niwas, Behind Reliance Office))
 Yogesh Nagar, Ambad Road, Jalna.)
 Mob. No. 9637825031)

2. Padmakar s/o Haridas Misal,)
 Age: 35 Yrs., Occu: Service)
 (as Police Constable, Police Head)
 Quarter, Jalna),)
 R/o: Shivaji Nagar, Mhada Clny.,)
 Bhokardan Naka, Jalna.)
 Mob. No. 9403035481)

3. Anil S/o Gangadhar Kakde,)
 Age :50 Yrs., Occ: Service (as Police)
 Constable, Sadar Bazar Police Station),)
 R/o: Thorana Ghid Nagar,)
 Mhada Colony, Aurangabad.)
 Mob. No. 8421578828.)

4. Dnyaneshwar s/o Pandurang Mhaske,)
 Age: 41 Yrs., Occ: Service (as Naik Police)
 Constable, Economic Offences Wing,)
 S.P. Office, Jalna),)
 R/o: Mauli Nagar, Ambad Raod, Jalna.)
 Mob. No. 9923744709.)

)APPLICANTS

V E R S U S

1. The Director General of Police,)
 Maharashtra State,)
 Maharashtra State Police HQ,)
 Old Council Hall,)
 Shaheed Bhagat Singh Marg,)
 Mumbai-01.)

2. The Additional Director General of)
Police (Transport),)
 Maharashtra State, Mumbai,)
 Moti Mahal, 6th Floor, 195,)
 J. Tata Road, Near CCI Club,)
 Opp. Shashank Restaurant,)
 Church Gate, Mumbai-20.)

3. The Superintendent of Police,)
 Jalna,)
 Beside Collector Office,)
 Bypass Road, Jalna.)

)RESPONDENTS

APPEARANCE : Shri Ajay S. Deshpande, learned
 counsel for the applicants in O.A.No.
 968/2023.
 : Shri A.S. Deshmukh, learned counsel
 for the applicants in O.A.No.115/2024.
 : Shri A.P. Basarkar, learned Presenting
 Officer for the respondents.

CORAM : Hon'ble Justice Shri V.K. Jadhav, Member (J)
RESERVED ON : 11.06.2024.
PRONOUNCED ON : 19.06.2024.

ORDER

Heard Shri A.S. Deshpande, learned counsel for the applicants in O.A.No. 968/2023, Shri A.S. Deshmukh, learned counsel for the applicants in O.A.No. 115/2024 and Shri A.P. Basarkar, learned Presenting Officer for the respondent authorities in both the O.As. finally with consent at the admission stage.

2. In the above Original Applications the identical issue has been raised with the prayer for similar relief. Hence, taken together for discussion and decided by this common judgment.

3. The applicants six in numbers in O.A.No. 968/2023 are seeking direction to the respondent No.1 to relieve them without any further delay for enabling to join Highway Police under the establishment of respondent No.3 on deputation. By way of amendment the applicants are also seeking direction to the respondent No.1 to relieve them in

precedence to others, in view of selection for deployment under the respondent No.3.

4. The applicants four in numbers in O.A.No. 115/2024 are seeking declaration that the action of respondent No.2 of incorporating a prescription in the order dated 15.12.2022 that it will be valid only for six months from the date of its issuance is void ab-initio and illegal per-se and further seeking direction to the respondent Nos. 2 & 3 to forthwith implement the order dated 15.12.2022 by relieving all the applicants from their respective present post for joining under the Highway Safety Patrol (HSP). By way of amendment, the applicants are also seeking direction to the respondents to implement the order dated 15.12.2022 by relieving all the applicants from their respective present post in the sequential order in which their names appear in that order for joining under the Highway Safety Patrol (HSP) and consequently permitting them all to join and work thereunder no sooner vacant posts become available in the HSP.

5. Brief facts giving arise to this Original Application are as follows:-

(i) All the applicants are a Police personnel working in the Jalna District Police Constabulary. Having rendered more

than 5 years of service, all the applicants became eligible to exercise an option for being deployed under the respondent-Highway Police, on being so asked by the Additional Director General of Police (Transport) by issuing a circular. All the applicants in both the Original Applications have submitted applications by giving their willingness to work under Highway Police. By undertaking requisite selection process for selecting fit and eligible persons the respondent – the Additional Director General of Police (Transport) by order dated 15.12.2022 in Original Application No. 115/2024 and by order dated 10.02.2023 in another Original Application was pleased to issue an order appointing the police personnel from the Jalna District Police Constabulary on deputation under the Highway Safety Patrol. The applicants' names were included in the said orders. Those orders came to be issued with a rider that the said deputation would be valid for certain period. The period is also different in both the orders. In the order dated 15.12.2022, the period of 6 months is prescribed wherein in another order 1 year period has been prescribed.

(ii) It is the further case of the applicants that the respondent- Superintendent of Police, Jalan took action of

relieving only 20 persons excluding the applicants. Though the applicants have made repeated requests for being relieved, they were not relieved within the so-called validity period of the order without there being any justifiable cause or reason. Hence, these both Original Applications.

6. Learned counsel appearing for the applicants in both the Original Applications submit that after undertaking the requisite selection process for selecting the fit and eligible persons like the applicants from the Jalna District Police constabulary and even though the orders appointing them on deputation under the Highway Safety Petrol have been issued, the applicants were not relieved by the respondent- the Superintendent of Police, Jalna under the pretext of one and another reason. Learned counsel for the applicants submit that there is no provision incorporated in the relevant statute or law which permits the respondent –Additional Director General of Police (Transport) to make the order of appointment on deputation to Highway Safety Petrol time bound by saying that it would be valid for 6 months or 1 year as the case may be. Thus the condition introduced in the above two orders keeping it valid for a particular period of

time is void ab-initio and illegal per-se and hence, not binding.

7. Learned counsel appearing for the applicants in both the matters submit that even the respondent- the Additional Director General of Police (Transport) has made a grievance to that effect to the Director General of Police, Mumbai regarding non-relieving of the selected members of the police constabulary. As a result, the Special Inspector General of Police in the office of Director General of Police, Mumbai was required to address a communication in the form of circular to all the District Heads of the machinery in the State, instructing to relieve those members of the Police Constabulary for their deployment on deputation under the respondent- Additional Director General of Police (Transport). The copy of the said communication issued by the Special Inspector General of Police in the office of Director General of Police, Mumbai dated 14.06.2023 is marked as Annexure 'A-3' in the Original Application 968/2023. However, even after issuance of the said circular, the applicants were not relieved for joining deputation under the respondent- Additional Director General of Police (Transport) in furtherance of their

orders of appointment. The applicants were unofficially told that there has been dearth of police Constabulary on the establishment of Superintendent of Police, Jalna.

8. Learned counsel appearing for the applicants in both the Original Applications submit that once the Director General of Police instructs to relieve the incumbents recommended for being deployed under the Highway Police Department, the respective Superintendent of Police were expected to relieve them immediately. However, unfortunately, there has been a pick and choose policy indulged by the respondent- the Superintendent of Police, Jalna in relieving the incumbents so selected. Learned counsel appearing for the applicants submit that such arbitrary withholding of relieving does not confirm to the equality principle as well as fair play. The applicants once selected on account of their overall performance, their selection cannot be rendered nugatory by flux of time, especially when the validity of the order for joining Highway Safety Patrol varies from 6 months to 1 year. The learned counsel submit that there is no rationale or an object sought to be achieved in prescribing different span for relieving and once the span is over, refusing to relieve them. Learned

counsel submit that the suitable directions may be issued for relieving the applicants in precedence to others to subserve the ends of justice.

9. Learned Presenting Officer on the basis of affidavit in reply filed on behalf of respondent- the Additional Director General of Police (Transport) submits that the posts of the police constables are approved from the establishment department of the District Police Units as per the various Government decisions and to fill the said vacant posts, applications were invited from the interested police constables, who meet the criteria mentioned in the circular issued by the office of Additional General of Police (Traffic), Maharashtra State, Mumbai. After scrutinizing the service sheets, police constables who fulfill the criteria of the circular are selected on deputation in the Highway Police Department.

10. Learned Presenting Officer submits that as the posts of police constables are vacant in the Highway Police, Jalna Division, a correspondence was made from the office of Additional Director General of Police (Traffic) regarding the requirement to the establishment department of Superintendent of Police, Jalna to fill the said vacant posts by

deputation. In turn, the Superintendent of Police, Jalan had sent across service sheet of 72 police constables to Additional Director General of Police (Traffic). Consequently, by letter dated 16.01.2023, 10.02.2023 and 21.02.2023, the Additional Director General of Police (Traffic) had informed the establishment department of Superintendent of Police, Jalna to relieve the selected police constables within the prescribed period i.e. 6 months in some orders and one year in some of the orders.

11. Learned Presenting Officer submits that, however, the respondent – the Superintendent of Police, Jalna has not relieved all the selected police constables. The respondent-the Superintendent of Police, Jalna has informed to Additional Director General of Police (Traffic), Mumbai that there are total 33 post sanctioned in the Highway Police Department, Jalna including 6 Police Sub-Inspector/Police Head Constables, 24 Police Naik/Police Constables and 3 police Drivers. At present in Highway Police Department, Jalna, 14 Police Sub-Inspector/Police Head Constables, 12 Police Naik/Police Constable and 3 Police Driver total 29 post working and only 01 post is vacant.

12. Learned Presenting Officer submits that the validity period of the deputation order has been rightly carved out by the Additional Director General of Police (Traffic). The applicants have no case to agitate. The Original Applications deserves to be dismissed.

13. Learned Presenting Officer on the basis of affidavit in reply filed on behalf of respondent –the Superintendent of Police, Jalna submits that in terms of orders issued by the Additional Director General of Police (Traffic), the Superintendent of Police, Jalna was to relieve selected Police Constables within the prescribed period from the date of order is issued. Learned P.O. submits that as per the affidavit in reply filed on behalf of respondent-Superintendent of Police, Jalna, some of the applicants could not be relieved due to availability of vacancy. Learned P.O. submits that there is no substance in both the Original Applications and the same are liable to be dismissed.

14. In both the Original Applications, I have carefully gone through the circular prescribing the criteria for being appointed from the Jalna District Police Constabulary under the respondent – Additional Director General of Police

(Transport) on Highway Safety Petrol. It appears that not only the physical fitness is considered as criteria but also various other criteria are considered including good knowledge of Marathi and English languages, Driving license of four wheeler and two wheeler, no pendency of departmental enquiry, no suspension was passed against such a candidate so also examination of last 10 years Confidential Reports, Computer knowledge etc. It thus appears that only the employees, who complete the aforesaid criteria, are selected for being deputed on Highway Safety Patrol. Undisputedly, all the applicants in both the Original Applications have fulfilled the said criteria in all respects and thus by issuing the orders in this regard by the Additional Director General of Police (Transport) they have been appointed on Highway Safety Patrol.

15. It appears that there is no justifiable reason for prescribing the time limit of validity of the said order of deputation. There is further no justification whatsoever in prescribing 6 months validity period in some of the orders and 1 year's validity period in the other orders. Even assuming that the said validity period is required for many

reasons, however, in the event, if the employee so selected is not relieved by the establishment where he is working, then there is no further direction issued in this regard. By end of time of the said validity, they could never be deputed on Highway Safety Patrol in terms of their appointment orders.

16. In this regard the communication issued by the Special Inspector General of Police (Establishment) dated 14.06.2023 to all the District Heads of the machinery in the State is self-speaking. It is specifically observed in the communication that despite the correspondence time to time, the said deputation orders deputing thereby the employees on Highway Safety Patrol duties are not being relieved. Thus considering the same, the Special Inspector General of Police (Establishment) has specifically directed to relieve the selected members of the police constabulary in terms of their deputation orders forthwith.

17. I have considered the submissions of the learned P.O. and also carefully gone through the affidavit in reply filed on behalf of the respondents. There is nothing in the affidavit in reply filed by the respondent justifying the non-relieving of the applicants for joining their deputation in terms of the

orders of the appointment on deputation. Further I don't find any justifiable reason prescribing the validity period of the said deputation order. In my considered opinion, the said orders should have been given effect forthwith and in the event if the effect is not given to the said orders then the validity of the said orders shall remain enforce till the effect is given to the said orders.

18. In view of above discussion, this Tribunal left with no other option but to partly allow both these Original Applications. Hence, the following order:-

ORDER

- (A) The Original Application No. 968 of 2023 and the Original Application No. 115 of 2024 are hereby partly allowed.
- (B) The respondents are hereby directed to implement the orders dated 16.01.2023, 10.02.2023 and 21.02.2023 in Original Application No. 968/2023 and order dated 15.12.2022 in Original Application No. 115/2024 by relieving all the applicants from their respective present post in precedence to others in the sequential order in

which their names appear in that order for joining under the Highway Safety Patrol (HSP) and permit them all to join and work thereunder as soon as the posts become available in the Highway Safety Patrol (HSP).

- (C) In the circumstances, there shall be no order as to costs.
- (D) The Original Applications stand disposed of accordingly.

MEMBER (J)

Place:-Aurangabad

Date : 19.06.2024

SAS O.A. 968/2023 with 115/2024 (S.B.) Relieve