MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 377 OF 2016

DIST. : OSMANABAD

Nanasaheb s/o Bhanudas Bhosale,
Age. 46 years, Occ. Service,
As Police Head Constable,
r/o Bank Colony, Osmanabad,
Tq. & Dist. Osmanabad. -- APPLICANT.

V E R S U S

1. The State of Maharashtra,
Through the Secretary,
Home Department,
Mantralaya, Mumbai - 32.
(copy to be served on C.P.O.,
M.A.T., Aurangabad).

2. The Special Inspector
General of Police,
Aurangabad Region,
Aurangabad.

3. The Superintendent of Police,
Osmanabad,
Tq. & Dist. Osmanabad. -- RESPONDENTS

APPEARANCE : Shri K.G. Salunke, learned Advocate for the Applicant.

: Smt. Deepali S. Deshpande, learned Presenting Officer for the Respondents.

CORAM : Hon'Ble Shri J.D. Kulkarni, Member (J)

J U D G M E N T

{Delivered on 7-10-2016}

1. The applicant, Shri Nanasaheb s/o Bhanudas Bhosale, was posted in the Counter Terrorist Unit, Osmanabad vide order dated 6.9.2012. Earlier he was transferred from Counter Terrorist Unit, Osmanabad to Police Station, Paranda vide transfer order dated 13.5.2015. Since he did not join at Police Station, Paranda as per the said transfer order, he was kept under suspension on 11.9.2015.

2. The applicant has challenged his earlier order of transfer by filing O.A. no. 717/2015 in this Tribunal. The said order was challenged by the applicant on the ground that, he has not completed his normal tenure in the post and there was no reason to transfer him. In the said O.A. no. 717/2015 this Tribunal was pleased to pass order on 11.2.2016 and directed the respondents as under :-

> "13. Applicant be allowed to work in the Counter Terrorist Unit, Osmanabad till he completes his tenure or till the competent authority finds some administrative exigency to transfer him on administrative ground.

> 14. In case, the respondents find the continuation of the applicant in Counter Terrorist Unit as not suitable, on administrative ground, the competent authority will be at liberty to take decision in that regard. There shall be no order as to costs."

3. In view of the aforesaid order the applicant was allowed to join at Osmanabad in Counter Terrorist Unit, however, again vide order dated 3.5.2016, the Establishment Board of Dist. Osmanabad transferred the applicant from Counter Terrorist Unit, Osmanabad to Police Station, Paranda on administrative ground. The said transfer order has been challenged in this O.A. The applicant has claimed that the impugned transfer order dated 3.5.2016 be quashed and set aside.

4. The res. nos. 1 to 3 have resisted the original application by filing common affidavit in reply. It is stated that while allowing O.A. no. 717/2015 on 11.2.2016 a liberty was granted to the respondents to take decision to transfer the applicant from Counter Terrorist Unit, Osmanabad, if his continuance found as not suitable, on administrative ground. The applicant has completed more than 16 years in Osmanabad town, which is his native place. His continuance in the Counter Terrorist Unit, Osmanabad was found undesirable and, therefore, he was

transferred to Police Station, Paranda as per the powers vested in the Govt. vide G.Rs. dated 23.4.2010 and 25.2.2015.

5. It is further stated by the respondents that, though the applicant has not completed 5 years at Counter Terrorist Unit, Osmanabad, he has enjoyed almost period of his service in Osmanabad town only and, therefore, it was necessary to transfer the applicant out of Osmanabad.

6. Heard Shri K.G. Salunke, learned Advocate for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer for the respondents. I have also perused the affidavit, affidavit in reply and various documents placed on record.

7. The material point to be considered in this O.A. is whether the impugned order of transfer dated 3.5.2016 issued by the respondent authority is legal and proper?

8. The respondents have placed on record the minutes of the meeting, whereby it was decided to transfer the applicant at Police Station, Paranda. A reference has been given to the letter dated 25.2.2015 issued by the Director General of Police, Maharashtra State, Mumbai, which gives guidelines regarding transfer of the employees. The applicant's case seems to have

been considered in the meeting of the Establishment Board and it was observed as under :-

"३. थोडक्यात, वरील सुधारणामुळे आता महाराष्ट्र पोलीस अधिनियम, १९५१ मधील कलम २२ न (१)(२) यामधील कोणत्याही पोलीस कर्मचा-याच्या सामान्य पदावधीत पूर्ण होणेपुर्वीच म्हणजेच मुदतपूर्व बदली करण्याचा अधिकार जिल्हास्तरावरील पोलीस आस्थापना मंडळास प्रदान करण्यात आलेला आहे.

शासन निर्णयानुसार जिल्हास्तरावरील आस्थापना मंडळ खालील प्रमाणे स्थापन करण्यात येत आहे.

१. जिल्हा पोलीस अधीक्षक - अध्यक्ष
२. अपर पोलीस अधीक्षक - सदस्य
३. सहायक पोलीस अधीक्षक/पोलीस उप अधीक्षक- सदस्य-सचिव

पोह-३९ नानासाहेब भानुदास भोसले, नेमणूक काउन्टर टेरर युनिट यांचा सेवातपशील खालील प्रमाणे आहे.

अ. नेमणूक दिनांक - १०.७.१९९१
ब. सेवानिवृत्तीची तारीख- ३१.७.२०२८
क. स्वग्राम - उस्मानाबाद

<u>यापूर्वी केलेल्या नेमणूकीचा तपशील -</u>

१. प्रशिक्षण कालावधी दिनांक- १०.७.१९९१
२. पोस्टे. भूम - ०३.६.१९९५
३. पोमु उस्मानाबाद - २६.०७.१९९७
४. स्थागुशा उस्मानाबाद- २९.२.२००३
५. नाहंसपथक-उस्मानाबाद- २१.११.२००७
६. पोस्टे. कळंब - ०३.०३.२००८
७. काउन्टर टेरर युनिट - ०९.०६.२०११ ते आजपावेतो

पोह-३९ नानासाहेब भानुदास भोसले, पोलीस भरती झालेपासून आजपावेतो २६ वर्षाच्या सेवाकालावधीत त्यांनी फक्त पोस्ट-भूम व कळंब येथील एकुण ०५ वर्ष सेवा कालावधी वगळता त्यांनी जवळपास २० वर्षापेक्षा जास्त कालावधी हा उस्मानाबार शहर / तालुका येथेच सेवा केल्याचे दिसून

येत आहे. मजकूर पोलीस हवालदार हे उस्मानाबाद शहर येथील रहिवाशी आहेत. त्यांना उस्मानाबाद तालुक्यातील सेवा कालावधी हा प्रमाणापेक्षा जास्त झाला आसल्याने त्यांची इतरत्र बदली करणे आवश्यक आहे.

पोह-३९ नानासाहेब भानुदास भोसले यांची सर्वसाधारण बदल्या - २०१५ मध्ये काऊंन्टर टेरर युनिट ते पोस्टे, परंडा येथे प्रशासकीय कारणावरून बदली करण्यात आली होती. परंतू ते बदलीच्या ठिकाणी हजर न होता बदली विरुध्द महाराष्ट्र प्रशासकीय न्यायाधीकरण खंडपीठ औरंगाबाद येथे मुळ अर्ज क्रं. ७१७/२०१५ दाखल केला त्यामध्ये मा. न्यायालयाने त्यांना काऊंन्टर टेरर युनिट येथेच नेमणूकीबाबत आदेश दिलेला आसल्याने सध्या ते काऊन्टर टेरर युनिट येथेच कार्यरत आहेत.

मा.न्यायालयाच्या न्यायनिर्णयामध्ये पुन्हा त्यांची बदली प्रशासकीय निकडीच्या कारणावरून सक्षम प्राधीकारी करू शकतील असे नमूद आहे.

तरी कृपया पोह-३९ नानासाहेब भानुदास भोसले, नेमणूक काऊंन्टर टेरर युनिट यांचा स्वग्राम उस्मानाबाद असल्याने व त्यांना उस्मानाबाद येथेच जवळपास २० वर्षापेक्षा जास्त कालावधी झाला असल्याने त्यांची इतरत्र ठिकाणी बदली बाबत जिल्हास्तरीय आस्थापना मंडळाच्या निर्णयास्तव सादर,"

9. No rejoinder is filed by the applicant denying the fact that he has completed 20 years of his service at Osmanabad town on various posts.

10. When the earlier transfer order of the applicant was cancelled by this Tribunal in O.A. no. 717/2015, it was found that the applicant has not completed his tenure of 5 years and no reason was made out for his said transfer. The respondents have stated in their affidavit in reply that the applicant is serving in Counter Terrorist Unit, Osmanabad from 9.6.2011. The

impugned transfer order has been passed on 3.5.2016 and, therefore, the applicant has almost completed 5 years in the Counter Terrorist Unit, Osmanabad and hence, now he cannot say that his tenure is not completed. Even otherwise, the respondents have given reasons in the minutes of the meeting, whereby the applicant's transfer was considered and those reasons might be proper as considered by the competent authority. It is not desirable to go into the details of the said reasons recorded by the competent authority and, therefore, I do not find any merits in the contention of the applicant that, he shall be continued to work in Counter Terrorist Unit, Osmanabad even after completion of 5 years tenure in the said post. It is for the competent authority to consider administrative reasons and, therefore, there is no merit in the O.A. Hence, I pass following order :-

O R D E R

The original application stands dismissed. There shall be no order as to costs.

MEMBER (J)