

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 330 OF 2016

DIST. : DHULE

Ramrao s/o Madhavrao Somwanshi,
 Age. 50 years, Occ. Service,
 R/o Police Training Center, Dhule,
 Dist. Dhule.

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APPLICANT

V E R S U S

- (1) The State of Maharashtra,
 Through Secretary,
 Home Department, Mantralaya,
 Mumbai -32.
- (2) The Additional Director General of
 Police, Training & Special Units,
 Office of Director General of Police
 Old Secretariat,
 Shahid Bhagtsingh Marg,
 Fort, Mumbai.
- (3) The Principal,
 Police Training Center, Dhule.
- (4) Office Superintendent,
 Police Training Center, Dhule. --
 (Copy to be served on the C.P.O.,
 M.A.T., Aurangabad.)

RESPONDENTS

APPEARANCE : Shri P.B. Patil, learned Counsel for the
 Applicant.
 : Smt. Priya R. Bharaswadkar, learned
 Presenting Officer for the Respondents.

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

JUDGMENT
{Delivered on 2nd September, 2016}

1. The applicant – Shri Ramrao s/o Madhavrao Somwanshi - was deputed to Police Training Centre, Dhule (for short P.T.C., Dhule) vide order dated 14.8.2014 by granting one step promotion. He was promoted from the post of Police Sub Inspector to Police Inspector in 2010. As such, the applicant was working with the P.T.C., Dhule as a Deputy Superintendent of Police in view of provisions of G.R. dated 14.8.2014. The facility of one step promotion was withdrawn by the Govt. by issuing G.R. dated 9.11.2015.

2. Vide impugned order dated 29.11.2015, the applicant was intimated as under :-

आदेश

उपरोक्त संदर्भ व विषयान्वये पोलीस प्रशिक्षण केंद्रातील प्रशिक्षकांना मंजूर करण्यात आलेली एकटप्पा पदेन्वती रद्द करण्यात आल्याने शासकीय सुट्यांचा लाभ घेणा-या अधिका-यांना (मुळपद पोलीस निरीक्षक तथा पोलीस उपअधिक्षक) यापुढे शासकीय सुट्यांचा उपभोग घेता येणार नाही. तसेच साप्ताहिक सुट्टीच्या दिवशी मुख्यालय सोडतांना आमची लेखी/तोंडी परवानगी घेण्यात यावी. कोणीही शासकीय सुटी उपभोगण्याची परवानगी मागू नये. या आदेशाचा भंग करतांना कोणीही आढळून आल्यास त्याविरुद्ध शिस्तभंगाची कारवाई करण्यात येईल.

सही/-
 (प्रशांत बच्छाव)
 प्राचार्य,
 पोलीस प्रशिक्षण केंद्र, धुळे+

3. According to the applicant, the said impugned order denying the applicant any type of leave during his deputation at P.T.C., Dhule is null and void and the same is required to be quashed and set aside.

4. The learned Counsel for the applicant admits that, so far as reliefs claimed in para 15 (C), (D) & (E) are concerned, the applicant is not pressing for those reliefs and, therefore, only point to be considered in this case is whether the impugned order dated 29.11.2015 issued by the res. No. 3, is legal and proper ?

5. The res. Nos. 1 to 4 have filed their common affidavit in reply and tried to justify the impugned order dated 29.11.2015. The respondents submitted that as per the provisions of Sec. 28 of the Maharashtra Police Act, 1951, the Police Officers are deemed to be always on duty and liable to be employed in any part of the State. In para 11 of the affidavit in reply the following statement is made by the respondents :-

“11. As regards para no. 2(8) of the application, I say and submit that, I say and submit that all the allegations made in this para are misleading on wrong assumption and presumption. It is a own persuasive of applicant that all holidays can enjoy

by the applicant. The provision u/sec. 28 of Maharashtra Police Act 1951 is very clear. It has reproduced for ready reference as under:- "Police officers to be deemed to be always on duty and to be liable to employment in any part of the State."

(1) Every Police officer not on leave or under suspension shall for all purposes of this Act be deemed to be always on duty, and any Police officer or any number or body of Police officers allocated for duty in one part of the State may, if the State Government or the Inspector General so directs, at any time, be employed on Police duty in any other part of the State for so long as the Services of the same may be there required.

(2) Intimation of proposed transfers to be given by the Inspector General to the Commissioner and District Magistrate. Timely intimation shall, except in cases of extreme urgency, be given to the 2 (Revenue Commissioner and the District Magistrate by the Inspector General, of any proposed transfer under this section, and, except, where secrecy is necessary the reasons for the transfer shall be explained; whereupon the officers aforesaid and their subordinates shall given all reasonable furtherance to such transfer."

The order dated 29.11.2015 is legal, valid and passed in accordance with, there is no illegality while passing the order.

The training has to completed within stipulated time of nine months, which is mandatory. If such type of request which has meaningless is considered then it is very difficult to complete the training programme and maintain the law and order situation.”

(para 11 reproduced as verbatim)

6. Heard Shri P.B. Patil, learned Counsel for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents. I have also perused the affidavit, affidavit in reply and various documents placed on record by both the sides.

7. The learned Counsel for the applicant submits that the impugned order is against the provisions of law. He submits that the applicant has sought information under Right to Information Act and he has been informed that the Police Officers working under P.T.C. are entitled to various kinds of leaves as per rules. The information received by the applicant is placed on record at Annex. A. 4 (paper book pages 15 & 16) and Annex. A.5 (paper book page 17).

8. The learned Counsel for the applicant also placed reliance on the Police Regulations Part-I and particularly clause 142 (B) thereof, which states as under :-

%ब्र) शनिवारी १४०० वाजल्यानंतर कोणतेही काम नसावे. सुट्टीच्या दिवशी आणि रविवारी प्रशिक्षण देवू नये. मनोरंजक ठिकाणांना क्वचित प्रसंगी सहली काढाव्यात. मासेमारी, गायन, नाटकात काम करणे, सुतार कामे इ. छंद जोपासण्यासाठी उत्तेजन दिले पाहिजे, आणि मनोरंजनासाठी क्लब तयार करण्यासाठी उत्तेजन दिले पाहिजे.+

9. The learned Counsel for the applicant has also placed reliance on Chapter – 10 of the said Regulation, which deals with the various kinds of leaves, which can be enjoyed by the Police Officers.

10. According to the learned Counsel for the applicant, while issuing the impugned order on 29.11.2015, the Principal of Police Training Centre, Dhule has referred to one Circular dated 9.11.2015. The copy of the said Circular is also placed on record at paper book pages 12 & 13. I have carefully gone through the said Circular vide which facility of one step promotion was withdrawn and instead Police Officers, who are deputed to P.T.C. have been given 30% of the pay as allowance for deputation. The said Circular nowhere states that the Officers on deputation will not be entitled to enjoy any leave. In view of this, the impugned order whereby it has been mentioned that the Police Officers on deputation at P.T.C. will not be entitled to enjoy any leave, is not legal. Merely, because a

person is on deputation and is being paid 30% of the pay as allowances, it cannot be said that his right to enjoy permissible leaves will be withdrawn.

11. The learned P.O. has invited my attention to Rule 28 of the Maharashtra Police Act, 1951. The said provision is already reproduced while discussing the reply affidavit of the respondents. Though this Rule 28 says that the Police Officers shall be deemed to be always on duty and to be liable to work in any part of the State. It nowhere states that the Police Officers will not be entitled to any kind of leave as informed to the applicant by the Principal, P.T.C., Dhule.

12. In view of the discussion in foregoing paras it will be clear that the impugned order dated 29.11.2015 issued by the Principal, P.T.C., Dhule is illegal and deserves to be quashed and set aside.

13. It seems from the various documents placed on record that the applicant's applications for leave were rejected by the Principal, P.T.C., Dhule. It will not be proper to go into the discriminatory jurisdiction of the Principal of the P.T.C., Dhule in granting or rejecting leave to the persons on deputation and as already stated, the learned Counsel for the applicant has

rightly did not press for the relief para 15 (C) & (D). Since the applicant's original application is disposed of on merits, the prayer clause para 15 (E) no more exists.

13. In view of discussion in foregoing paras, I pass following order :-

ORDER

The Original Application is partly allowed in terms of prayer clause para 15 (B). The impugned communication dated 29.11.2015 issued by the res. No. 3 – the Principal, P.T.C., Dhule - is quashed and declared null and void. There shall be no order as to costs.

MEMBER (J)