

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.1095 OF 2017

Shri Anil Baburao Shewale,)
Working as Police Inspector,)
Residing at B-7/37, Tridal nagar Co-Op. Housing Society,)
Near Moze School, Yerwada, Pune 411 006.)

.. Applicant

Versus

- 1) State of Maharashtra,)
Through Chief Secretary,)
Mantralaya, Mumbai 400 032)
- 2) Additional Chief Secretary,)
Home Department,)
Mantralaya, Mumbai 400 032.)
- 3) The Director General of Police,)
Maharashtra State,)
Shahid Bhagatsing Marg,)
Colaba, Mumbai 411 001.)

..Respondents

Smt. Punam Mahajan, the learned Advocate for the Applicant.

Ms. S. Suryawanshi, the learned Presenting Officer for the Respondents.

CORAM : JUSTICE SHRI A.H. JOSHI, CHAIRMAN

RESERVED ON : 15.02.2018.

PRONOUNCED ON : 27.02.2018.

J U D G M E N T

1. Heard Smt. Punam Mahajan, the learned Advocate for the Applicant and Ms. S. Suryawanshi, the learned Presenting Officer for the Respondents.

2. Original Application is taken up for hearing.

3. Applicant has challenged the order of transfer dated 20.04.2017 (copy whereof is at Annexure-5) to his extent. Applicant's name is seen at serial No.207, at page 22 and applicant is transferred to Mumbai City. The recitals contained in the transfer order contains following text :-

“महाराष्ट्र पोलिस कायदा कलम २२ न (२) अन्वये प्राप्त अधिकारांचा वापर करून पोलीस आस्थापना मंडळ क्र.२ यांनी जनहितार्थ विशेष बाब म्हणून निःशस्त्र पोलीस निरीक्षक यांनी केलेल्या विनंतीचा सांगोपांग विचार करून खालीलप्रमाणे पदस्थापनेचा निर्णय घेतला आहे.”

(Quoted Annexure-A5, page 17 of the paper book of O.A..)

4. According to the Applicant :-

- (a) He joined his last posting on 26.05.2014 by transfer order dated 26.05.2014 and joined on 15.06.2014.
- (b) He has completed less than three years, which is less than the statutory tenure barely by two months.
- (c) In the background that impugned transfer is mid-term and mid-tenure transfer, recording of “special reasons and exceptional circumstances” or existence of some misconduct prima facie which emerges is necessary, except when the transfer is done on account of request.

5. Applicant has categorically denied that he has made request for transfer. During the pendency of this O.A. Respondents / Competent Authority were directed to reconsider its transfer order of the Applicant.

6. Ms. S. Suryawanshi, the learned Presenting Officer for the Respondents has been informed by letter dated 09.02.2018 by the Director General (Establishment) that Applicant's transfer at suitable place would be considered if he makes application through appropriate channel in the general transfer session of 2018.

7. According to the Applicant, since he is challenging the transfer on the ground that, though transfer is described to be done on 'request' he had not requested for Transfer to Mumbai City.

8. During hearing facts pleaded by the applicant about tenure, are not disputed. It is reiterated that in fact applicant has requested for Transfer. For this stance, the respondents have relied upon documents at page 57 of O.A. which is placed on record by the applicant.

9. Perusal of consent format/ option format, (copy whereof is at page 57 of the paper book of O.A.) reveals that it is document in the nature of option form to be submitted by each officer, furnishing details of their posting and three choices / preferences of their posting. In that format, the Applicant has stated preference of posting for Pune (Rural), Raigad and Navi Mumbai.

10. Respondents have attempted to show that the option form constitutes a request for transfer at Mumbai. Respondents have not shown that any specific request was made for posting at Navi Mumbai by submitting any other letter / application.

11. In the aforesaid background, applicant has made out the case that impugned transfer though titled as a request transfer, and the same is issued based on respondents' misgivings about facts. The Transfer order is contrary to law as regards requirements of recording of special reasons.

12. Hence, impugned order is liable to be quashed and set aside, and is accordingly quashed and set aside.

13. Parties are directed to bear own costs.

**Sd/-
(A.H. Joshi, J.)
Chairman
27.02.2018**

prk