

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.532 of 2020

District : MUMBAI

Shri R. S. Jadhav)
Age 57 years, working as Assistant)
Commissioner of Police, R/at 480/1B, Lila)
Manik Apartments, 5th floor, Sardar Murlidar)
Road, Rasta Road, Pune 411 001.)...**Applicant**

Versus

1. The State of Maharashtra,)
Through Additional Chief Secretary,)
Home Department, Mantralaya,)
Mumbai.)
2. Director General of Police, Maharashtra)
State, Mumbai, Maharashtra Police H.Q.)
Shahid Bhagat Singh Marg, Colaba.)
Mumbai -400 001.)
3. Commissioner of Police, Pimpri)
Chinchwad, Premlok Park, Chinchwad,)
Pune - 411003.) **...Respondents**

Smt. Punam Mahajan, learned Advocate for the Applicant.
Smt. Kranti Gaikwad, learned Presenting Officer holding for Ms S. P.
Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : Shri A.P. Kurhekar, Member-J

DATE : 15.02.2021

J U D G M E N T

In the present Original Application, the Applicant has challenged the transfer order dated 30.09.2020 whereby he was transferred from the post of Assistant Police Inspector (API)-Pimpri Chinchwad to Deputy Superintendent of Police, Police Training School, Jalana contending that

he is transferred mid-term and mid-tenure without there being a case to invoke Section 22N(2) of Maharashtra Police Act.

2. The Tribunal in its order dated 08.10.2020 found that no case is made out to invoke the provisions of Section 22N(2) of Maharashtra Police Act and granted interim relief in favour of the Applicant.

3. Smt. Punam Mahajan, learned Counsel for the Applicant has pointed out that the Applicant had joined on the present post on 04.01.2019 and was not due for transfer but he is transferred under colourable exercise of Section 22N(2) of Maharashtra Police Act. She has further pointed out that the Applicant is retiring at the end of March, 2021 and considering this aspect, he ought not to have been disturbed.

4. Perusal of reply reveals that the only ground raised for transfer of the Applicant is that he had been in Pune District for more than 18 years except few days intermittently. As such, even if the Applicant had been in Pune District for long period, it could not have been the ground for mid-term and mid-tenure transfer unless special case is made out to invoke Section 22N(2) of Maharashtra Police Act. Indeed, if the Applicant was overdue and had spent more period in Pune District then he ought to have been transferred in general transfer by the Competent Authority. However, it is not so. The Competent Authority itself accommodated him unduly.

5. Be that as it may, the perusal of Minutes of PEB reveals that the Applicant was transferred along with others in the list of 107 police personnel on the administrative ground. No reason even for namesake is forthcoming what prompted the PEB to transfer the Applicant mid-term and mid-tenure. As per Section 22N(2) of Maharashtra Police Act the mid-term and mid-tenure transfer is permissible in public interest and on account of administrative exigencies only. In the present case, no such case is made out to invoke Section 22N(2) of Maharashtra Police Act.

6. Furthermore, as stated above the Applicant is retiring at the end of March, 2021 which is hardly 1 ½ month away. At the time of impugned transfer order this fact ought to have been considered by the PEB and he should have been allowed to continue at the same place since there was absolutely no case to invoke the Section 22N(2) of Maharashtra Police Act.

7. Since the Applicant is due to retire by the end of March, 2021, the endeavor was made to facilitate the Respondents to pass the order to continue the Applicant at the same place till his retirement being very short period. However, no such orders are passed though enough time is granted. All that learned Presenting Officer submitted that the matter is under consideration before the Government.

8. In view of above, on legal side, the impugned order in absence of compliance of Section 22N(2) in letter and spirit is unsustainable in law and deserves to be quashed. Hence the following order:-

ORDER

- (A) Original Application is allowed.
- (B) Impugned order dated 30.09.2020 qua the Applicant is quashed and set aside.
- (C) Interim relief granted in favour of the Applicant is made absolute.
- (D) No order as to costs.

Sd/-

**(A.P. KURHEKAR)
MEMBER (J)**

Date : 15.02.2021

Place : Mumbai

Dictation taken by :

Vaishali Santosh Mane

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