

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 810/2015(D.B.)**

Madhukar Natthuji Nanhe,
Aged 45 years, Occupation Service,
R/o Ambikanagar, Bhandara.

Applicant.

Versus

1. The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-32.
2. Director General of Police,
Maharashtra State,
Near Regal Cinema, Mumbai.
3. Special Inspector General of Police,
Nagpur Region, Nagpur.
4. Superintendent of Police, Bhandara.
5. Ravi Babulal Fulsunge,
Major, occupation service,
Bickle No. 472, R/o Police Station Bhandara.
6. Ganpat Shiva Kolhe, Major,
occupation service, Buckle No. 764,
R/o Police Station Palandur,
Tahsil Lakhni, Distt. Bhandara.
7. Rajesh Dewaji Shende, Major,
occupation service, Buckle No. 658,
R/o Police Head Quarters, Bhandara.

8. Sudhakar Raghoji Shende,
Major, occupation service, Buckle No. 309,
R/o Police Station, Jawaharnagar,
Bhandara, Distt. Bhandara.
9. Sanjay Changoji Dighore, Major,
occupation service, Buckle No. 705,
R/o Traffic Branch, Bhandara.
10. Suresh Laxman Meshram,
Major, occupation service, Buckle No. 120,
R/o Police Station, Jawahar Nagar, Bhandara.
11. Manohar Ramaji Sahare,
Major, occupation service, Buckle No. 304,
r/o Police Station, Tumsar,
Tahsil Tumsar, Distt. Bhandara.
12. Fulchand Sindhi Meshram,
Major, occupation service, Buckle No. 483,
r/o Police Station Sakoli,
Tahsil Sakoli, Distt. Bhandara.
13. Dilip Shivaji Bhoyar,
Major, occupation service, Buckle No. 140,
Police Station Lakhandur, Tahsil Lakhandur,
Distt. Bhandara.
14. Baban Saoji Kalwar,
Major, occupation service, Buckle No. 414,
r/o Police Station, Paoni, Tahsil Paoni,
District Bhandara.
15. Gorakhnath Gangaram Tiradwar,
Major, occupation service, Buckle No. 91,
R/o Police Head Quarters, Bhandara.

16. Hemraj Meshram, Major,
occupation service, Buckle No. 1000,
Police Station, Palandur, Tahsil Sakoli,
District Bhandara.
17. Raju Shinde, Major,
occupation service, Buckle No. 144,
Traffic Branch, Bhandara.
18. Rajkumar Maroti Nanhe, Major,
occupation service, Buckle No. 382,
Police Station, Kardha, Tahsil
And District Bhandara.
19. Sudam Bisan Kamble, Major,
occupation service, Buckle No. 194,
Police Station, Jawahar Nagar, Bhandara.
20. Mulhand Sukhram Meshram,
Major, occupation service, Buckle No. 117,
Police Station, Gobarwahi.
Tahsil Tumsar, District Bhandara.
21. Shantaram Shriram Kambli,
Major, occupation service, Buckle No. 543,
SDPO Office, Bhandara.
22. Shankar Dajiba Mohankar,
Major, occupation service, Buckle No. 380,
Control Room, Bhandara.

Respondents.

Shri A.C.Dharmadhikari, Ld. Counsel for the applicant.
Shri M.I.Khan, Ld. P.O. for the respondents 1 to 4.
None for the respondents 5 to 22.

Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman &
Hon'ble Shri Nitin Gadre, Member (A).
Dated:- 04th September, 2024.

JUDGMENT

Heard Shri A.C.Dharmadhikari, learned counsel for the applicant and Shri M.I.Khan, learned P.O. for the respondents 1 to 4.
None for the respondents 5 to 22.

2. The case of the applicant in short is as under –

The applicant was appointed as a Police Constable. He was posted at Arjuni Morgaon, District Bhandara. After the bifurcation of Bhandara District in two Districts i.e. Bhandara and Gondia, the applicant was transferred from Bhandara District to Gondia District. The respondent i.e. the Superintendent of Police, Gondia has accepted the request of the applicant and issued order of transfer dated 07.07.2008 and he is transferred to Bhandara.

3. As per Clause – 3 of the order, the respondents 1 to 4 have to decide the seniority. Respondents 1 to 4 have wrongly placed him junior to the persons who were appointed in subsequent year and therefore the applicant has approached to this Tribunal to grant him deemed date of seniority and also the consequential benefits.

4. The applicant has filed the present O.A. for the following reliefs-

A) Quash and set aside the impugned communications dated 18.3.2015, 27.12.2013 and 31.12.2014 at Annex. A-27, A-17 and A-23 to the Original Application and hold that the applicant is entitled for a deemed date of promotion on the post of 1.7.2001 Police Naik w. e. f. 1.7.2001 and by granting him the said deemed date of promotion, direct the respondents to grant him further promotions on the posts of Police Head Constable and Assistant Sub-Inspector of Police on the respective posts from the date on which his immediate juniors as is mentioned in the application and viz. respondents 5 to 22 are promoted on the respectively posts as mentioned and informed in terms of the letter dated 6/11/2015 at Annexure A-31.

(B) Direct the respondents to grant the applicant appropriate position in the seniority list on the basis of the deemed date of promotion on the post of Police Naik to the applicant i.e. 1.7.2001 and also grant appropriate placement in the seniority lists of Police Head Constable and Assistant Sub-Inspector of Police, in the interest of justice.

(C) Direct the respondents to grant all consequential benefits to the applicant on the basis of the said deemed date of promotion of Police Naik and consequently on the posts of Police Head Constable and Assistant Sub-Inspector of Police.

(D) Grant such other appropriate and suitable relief in favour of the applicant to meet the ends of justice.

8. INTERIM RELIEF:

During the pendency and final disposal of the Original Application, direct the respondents to consider the case of the applicant sympathetically, in the interest of justice.

5. The O.A. is strongly opposed by the respondents 1 to 4 by filing reply-in-affidavit. It is submitted that the applicant opted for inter-district transfer, therefore, he is junior at the transferred place. There is nothing wrong. Hence, the O.A. is liable to be dismissed.

6. During the course of submission, the learned counsel for the applicant has pointed out the proposal made by the Special Inspector General of Police, Mumbai dated 03.12.2020 and the letter of the Director General of Police, Mumbai to the Additional Chief Secretary (Home) dated 10.08.2021 and the letter dated 17.11.2021. As per the submission of learned counsel for the applicant, the seniority of applicant is wrongly fixed and it is also admitted by the respondents 1 to 4 in the said proposals dated 03.12.2020 and 10.08.2021. Therefore, the learned counsel for the applicant prayed to grant deemed date of seniority to the applicant and also prayed to grant consequential benefits to the applicant.

7. Heard learned P.O.. He has submitted that the applicant was transferred from Gondia to Bhandara on his own request, therefore, he lost his seniority and he is placed as a junior to the other employees who were already working in the Bhandara District, in the same cadre. Hence, the O.A. is liable to be dismissed.

8. The learned counsel for the applicant has pointed out transferred order dated 07.08.2008. The said transfer order dated 07.07.2008 is reproduced below-

या जिल्ह्यातील खालील नमुद पोलीस कर्मचारी यांची खालील नमुद मान्य असलेल्या अटी व शर्तीचे अधीन या जिल्ह्याचे आस्थापनेवरून भंडारा जिल्ह्याचे आस्थापनेवर पोलीस शिपाई पदामध्ये आंतरजिल्हा बदली करण्यात येत आहे.

- १) पोना ६३१/बाबुलाल सार्वे, पोस्टे तिरोडा
- २) पोना ६४७/रमेश भरले, पोस्टे अर्जुनी मोर.
- ३) पोना ६६१/मधुकर नान्हे, पोस्ट गोंदिया शहर
- ४) पोशि ७०७/नितीन शिवणकर, पोस्टे गोंदिया ग्रामीण
- ५) पोशी ८०३/जितेंद्र भोगे, पोस्टे चिचगड
- ६) पोशि ८७६/विलास गायधने, स्थानीक गुन्हे शाखा, गोंदिया
- ७) पोशि ९१२/सुनिल गजभिये, पोस्टे चिचगड

१) त्यांना भंडारा जिल्ह्याचे विभाजनाचे वेळी, ज्या पदात (पोलीस शिपाई) कार्यरत असतांना, गोंदिया जिल्ह्यात वर्ग करण्यात आले होते, त्याच पदात (पोलीस शिपाई) भंडारा जिल्ह्यात आंतरजिल्हा बदलीवर स्विकारण्यात येईल.

२) त्यांना गोंदिया जिल्ह्यातील सेवाजेष्ठतेनुसार पोलीस नाईक पदांत पदोन्नती मिळालेली असल्याने, या पदातील सेवाजेष्ठतेचा त्यांचा कोणताही हक्क भंडारा जिल्ह्यात पोलीस शिपाई पदात बदलीवर आल्यानंतर राहणार नाही, तसेच या पदांच्या वेतनश्रेणीतील वार्षिक वेतनवाढीचा किंवा या पदावरील अन्य कोणत्याही बाबींचा त्यांचा कोणताही हक्क असणार नाही.

३) त्यांची सेवाजेष्ठता, ते ज्यावर्षी पोलीस शिपाई म्हणून भरती झाले आहेत, त्यावर्षी भंडारा जिल्ह्यात भरती झालेल्या किंवा त्यावर्षी भंडारा जिल्ह्यात

भरती न झालेले पण सध्या त्यावर्षीचे कार्यरत असलेले पोलीस शिपाई असतील त्यांचे सर्वात खाली पुनःस्थापीत केले जाईल.

४) सदरहू बदली विनंतीवरून करण्याचे प्रस्तावीत असल्याने त्यांना महाराष्ट्र नागरी सेवा (पदग्रहण अवधी, स्वियेत्तर सेवा इत्यादी) नियम १९८१ च्या नियम २८ प्रमाणे बदलीवर हजर होण्यासाठी पदग्रहण अवधी, स्थानांतर प्रवास भत्ता अनुज्ञेय असणार नाही.

५) त्यांना भंडारा जिल्ह्यात कोठेही नोकरी करावी लागेल.

9. Proposal dated 03.12.2020 issued by the Special Inspector General of Police is reproduced below-

तरी, प्रस्तुत प्रकरणी पोलीस अधीक्षक, भंडारा यांनी सादर केलेला प्रस्तावानुसार मुळ भंडारा जिल्ह्यातील जे अमलदार गोंदीया जिल्ह्यातून विनंतीवरून बदलीवर हजर झालेले आहेत त्यांची सेवाजेष्ठता अबाधित ठेवण्याबाबत व जे पोलीस अंमलदार भंडारा जिल्ह्यात आल्यानंतर नियत वयोमानानुसार सेवानिवृत्त, स्वेच्छा सेवानिवृत्त व निधन पावलेले आहेत अशा पोलीस अंमलदाराना मानीव तारीख देय झाल्यास त्यांचे मानीव तारखेबाबतची प्रकरणे परिक्षेत्रीयस्तरावर मंजूर करण्याबाबतचे आदेश शासनस्तरावरून कृपया सत्वर निर्गमित होणेस विनंती आहे.

10. The material part of the letter issued by the Director General of Police is reproduced below-

उपरोक्त विषयास अनुसरून संदर्भाधिन पत्रान्वये शासनास अहवाल सादर करण्यात आला असून त्यावरील शासनाचे आदेश अद्याप अप्राप्त आहेत. (सोबत सदर पत्राची प्रत पुन्हा जोडली आहे.)

तरी, प्रस्तुत प्रकरणी पोलीस अधीक्षक, भंडारा यांनी सादर केलेला प्रस्तावानुसार मुळ भंडारा जिल्ह्यातील जे अंमलदार गोंदीया जिल्ह्यातून विनंतीवरून बदलीवर हजर झालेले आहेत त्यांची सेवाजेष्ठता अबाधित ठेवण्याबाबत वजे पोलीस अंमलदार भंडारा जिल्ह्यात आल्यानंतर नियत वयोमानानुसार सेवानिवृत्त, स्वेच्छा सेवानिवृत्त व निधन पावलेले आहेत अशा पोलीस अंमलदाराना मानीव तारीख देय झाल्यास त्यांचे मानीव तारखेबाबतची प्रकरणे परिक्षेत्रीयस्तरावर मंजूर करण्याबाबतचे आदेश शासनस्तरावरून कृपया सत्चर निर्गमित करावेत अशी शासनास विनंती आहे.

11. From the perusal of the transfer order and the proposals made by the Special Inspector General of Police and the Director General of Police, it is clear that the seniority of the applicant is wrongly fixed by the respondents 1 to 4. The respondents 1 to 4 should have followed the conditions mentioned in the transfer order dated 07.07.2008. Hence, we pass the following order.

ORDER

1. The O.A. is allowed.
2. The respondents 1 to 4 are directed to correct the seniority of the applicant as per transfer order dated 07.07.2008.
3. The respondents 1 to 4 are directed to grant consequential benefits to the applicant after correction of the seniority of the applicant.

4. The respondents 1 to 4 are directed to grant promotional benefits after correcting the seniority list, if the applicant was/is eligible for the same.
5. The respondents 1 to 4 are directed to comply the order within a period of six months from the date of receipt of this order.
6. No order as to costs.

(Nitin Gadre)
Member(A)

(Justice M.G.Giratkar)
Vice Chairman

Dated – 04/09/2024.
rsm.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde.
Court Name : Court of Hon'ble Vice Chairman
& Hon'ble Member (A).
Judgment signed on : 04/09/2024.
and pronounced on
