

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI
BENCH AT AURANGABAD.

DIST. AURANGABAD.

ORIGINAL APPLICATION NO.283/2016.

Dharmachandra S/o Rajaram Salve,
Age 56 years, Occu. Service,
R/o Police Colony, TV Centre,
Aurangabad.

-- APPLICANT.

V E R S U S

1. The State of Maharashtra,
Through: Secretary,
Home Department,
Mantralaya, Mumbai 32.
2. The Commissioner of Police,
Commissioner office,
Aurangabad.

-- RESPONDENTS.

APPEARANCE : Shri KB Jadhav, learned Advocate
for the Applicant.

: Shri IS Thorat, Learned Presenting
Officer for Respondents.

CORAM : **Hon'ble Shri JD Kulkarni, Member (J).**

DATE : 07.10.2016.

JUDGMENT
(Delivered on 7th October, 2016).

1. Applicant Dharamchandra Rajaram Salve was initially appointed as Police Constable on 13.7.1984 and after completion of training he was posted at City Chowk Police Station, Aurangabad. Thereafter, he was transferred to various places from time to time and was promoted as Police Head Constable in the year 2012. Thereafter, he was transferred on the post of Head Constable in Traffic Branch, Aurangabad on 10.6.2013.

2. The Respondent no.2 the Commissioner of Police, Aurangabad has issued impugned order dated 23.3.2016 whereby applicant has been transferred from Traffic Branch, Aurangabad to Kranti Chowk Police Station, Aurangabad. It is stated that, the said order of transfer is against the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 and therefore, the applicant has prayed that the said impugned order of transfer be quashed and set aside. It is also stated that, the applicant has filed representation against such transfer

on 6.4.2016, but his representation has not been considered and therefore, he claimed direction for consideration of such representation.

3. The Respondent no.2 filed affidavit in reply and justified the transfer order. It is stated that, the Transfer Act, 2005 is not applicable to Police Department, in view of the notification dated 1.2.2014 & 16.2.2015 i.e. Exh.R-1. It is stated that, the transfer order has been passed on administrative ground and considering the law and order situation to be maintained.

4. Heard Shri KB Jadhav, learned Advocate for the applicant and Shri IS Thorat, learned Presenting Officer for the Respondents. Perused the application, affidavit in reply and various documents placed on record.

5. The only point is to be considered is “Whether the impugned order of transfer in respect of applicant is legal?”

6. The learned Advocate for the applicant submits that, the applicant has not completed his tenure at Traffic Branch, Aurangabad since he was serving in the Traffic Branch from 10.6.2013 only, and has not completed tenure

of five years. The applicant had not disputed the authority of the transferring authority as per Section 22C (1) (2) of the Maharashtra Police (Amendment) Ordinance. The only say is that, the applicant has been transferred in the mid term since he has not completed his five years at Traffic Branch, Aurangabad.

7. Perusal of various provisions of the Maharashtra Police Act and the Ordinance referred in the reply affidavit clearly shows that, the competent authority has every right to transfer any personnel even before completion of his tenure of particular post in the interest of administration. From the order itself it is clear that as many as 18 police personnel were transferred, out of which 15 were transferred on administrative ground and applicant is amongst them. There is nothing on the record to show that, the Respondent authorities have any malice against the applicant. The applicant has been transferred from Traffic Branch to Kranti Chowk Police Station at Aurangabad itself and therefore, no prejudice has been caused to the applicant. The applicant has already joined on the transferred post though late.

8. In the reply affidavit the respondents have stated that, the applicant was in habit of remaining absent on duty and during his service period 109 punishments (major and minor) and 11 rewards were given to him and that his service is not clean and satisfactory. He was already relieved from Traffic Branch on 19.4.2016, but deliberately did not join at his new place of posting and was absent from duty from 20.4.2016 to 18.5.2016 i.e. for 29 days. It seems that, considering all these aspects the Respondent authorities have thought it proper to transfer the applicant, though he has not completed his tenure of five years as per Maharashtra Police Act, and therefore the provisions of said Act are applicable as against the general Transfer Act of 2005. No rejoinder affidavit has been filed to deny the reply affidavit. It is also seen that, the applicant is not being transferred on the basis of his misconduct or earlier record though his history has been mentioned in the reply affidavit and on the contrary, the impugned order shows that the same is being issued in the administrative interest and also considering the maintenance of law and order

situation. It seems that, only the applicant has grievance against the order of transfer out of 18 police personnel, who were transferred vide impugned order. There is no reason as to why the applicant shall insist that, he shall be posted in Traffic Branch only.

9. On a conspectus of discussions in foregoing paragraphs I am therefore, satisfied that, the impugned order can not be said to be mala fide or illegal and the same has been issued in the interest of justice and in order to maintain the law and order situation. The provisions of G.R. dated 11.2.2016 are not applicable in this case, since the transfer has been effected in view of the provisions of the Maharashtra Police Act. In the result, I do not find any merits in the O.A. Hence, the following order.

ORDER.

- i) The O.A. is dismissed.
- ii) No order as to costs.

MEMBER (J)

OA-283-2016-ATP

