

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.506 OF 2017**

DISTRICT : PUNE

Shri Ramesh Gabaji Nale,)
Age 55 years, Assistant Sub Inspector (Buckle No.785),)
Chakan Police Station, Tal. Khed, District Pune)
R/o 34, Yashwant Vihar Society, Wadgaon Dhayri,)
Pune-41)..Applicant

Versus

1. The Superintendent of Police,)
Pune (Rural), Chavan Nagar, Pashan Road, Pune)
2. The State of Maharashtra,)
Through Principal Secretary,)
Home Department, Mantralaya, Mumbai 400032)..Respondents

Shri A.V. Bandiwadekar – Advocate for the Applicant

Shri A.J. Chougule – Presenting Officer for the Respondents

CORAM : Shri Justice A.H. Joshi, Chairman
CLOSED ON : 2nd November, 2017
PRONOUNCED ON : 7th November, 2017

J U D G M E N T

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. The applicant had earlier approached this Tribunal against the transfer order dated 27.5.2016 transferring the applicant from Chakan Police Station to Narayangaon Police Station, Pune by filing OA No.486 of 2016. The said OA was disposed off on 14.3.2017 with the following directions:

“I think, there is substance in Mr. Bhise’s contention based on what is a communication from the Applicant at Exh. ‘D’ (Page 17 of the Paper Book (PB) whereby he had sought one year’s extension at Police Station Chakan because according to him, he had not completed the statutory period of five years. The Incharge Police Inspector recommended that extension of time to him which is clear from the same document. Whatever may have been the facts stated in the Affidavits, in my opinion, the arguments of the learned PO need to be accepted and in all fairness, Mr. Bandiwadekar has no objection, if the order of transfer currently stayed becomes operational from 1st June, 2017.

This OA, therefore, is disposed of with a direction that the impugned order of transfer shall become operational w.e.f. 1st June, 2017 and till then the interim order in force till now shall continue. No order as to costs. Hamdast.”

(Quoted from page 20 of the OA)

3. Thereafter impugned order was passed.

4. By this OA the applicant is challenging the order dated 26.5.2017, which is at Exhibit ‘A’ page 18 of the OA, transferring the applicant from the post of Assistant Sub Inspector, Chakan Police Station to Narayangaon Police Station, Pune.

5. Learned Advocate for the applicant has vehemently argued for challenging the impugned order. In support of his contentions he has relied on the averments contained in para 6.17 to 6.20.

6. The gist of the contention is that:-

- (i) The order passed by the Tribunal permitting the respondents to transfer the applicant during general transfer is misused and used to transfer the applicant.
- (ii) It was not necessary to transfer the applicant.
- (iii) The transfer prejudices the applicant and applicant's domestic difficulties have not been remedied.
- (iv) The applicant's meritorious record is not taken into account.

7. The OA is opposed by the State by filing reply.

It is urged that:-

The applicant's grievance against his posting at Narayangaon was duly considered and addressed, as is evident from second para of impugned order wherein transfer order dated 27.5.2016 has been revoked/cancelled. Considering the effective use and deployment of applicant's service, he has been posted at Otur Police Station. Thus, the applicant's case was to be considered after taking into consideration his request. Moreover the allegations of abuse etc. are denied.

8. After considering rival submissions and averments, this Tribunal is of considered view that the present OA is not based on any 'illegality in the manner of exercise of power or want of power'.

9. Bare allegations that the order is 'wrong and illegal' as averred in para 6.17 of OA is like hurling of a blame or abuses.

10. Abuses are adjectives and are devoid of factual foundation. Abusive language and charges do not constitute due and adequate factual pleadings or pleading as regards an illegality.

11. The applicant has to show as to which particular provisions of law and in particular which mandatory provisions of statutory legislation or rule framed under delegated legislation, or law of precedent is violated.

12. Criticism against administrative business in absence of illegality or gross or patent arbitrariness or unfairness as to 'due process', does not constitute a ground for empowering the Court or Tribunal to evoke jurisdiction to interfere in the exercise of powers by the executive. Some action was more desirable or better or ideal, cannot constitute to be a ground of challenge. The exercise by executive cannot be interfered as if done for the sake of asking except on the ground of illegality or violation of fundamental rights.

13. In the result, this Tribunal has reached to conclusion that the present OA is in the nature of a clamour and even not mercy petition. Moreover, there are no special circumstances made out by the applicant due to which even a merciful approach or exercise and invoking extraordinary jurisdiction for "any other purpose" as may be possible under Article 226 of the Constitution of India.

14. Hence, Original Application has no merit and is dismissed.

15. Parties are directed to bear own costs.

Sd/-
(A.H. Joshi, J.)
Chairman
7.11.2017

Dictation taken by: S.G. Jawalkar.