



तात्काळ/न्यायालयीन प्रकरण.

क्र.पोमसं/१४अ/६७/एमएन/३२८/२०१६.

महाराष्ट्र राज्य पोलीस मुख्यालय,

शहीद भगतसिंग मार्ग, कुलाबा,

मुंबई. दिनांक - ०८/११/२०१७.

संदर्भ:- या कार्यालयाचे परिपत्रक समक्रमांक दि. ०७ ऑक्टोबर, २०१६.

विषय:- महाराष्ट्र पोलीस अधिनियम, १९५१ मधील कलम २२न नुसार स्थापन करण्यात आलेल्या विविध पोलीस आस्थापना मंडळांना पोलीस निरीक्षक पदापर्यंत बदल्या करण्याच्या असलेल्या प्राधिका-यांच्याबाबतीतील मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, नागपूर खंडपीठाने, मूळ अर्ज क्र.७७०/२०१६ (श्री.प्रमोद सिताराम डोंगरे, पोनि विरुद्ध महाराष्ट्र शासन आणि इतर) यामध्ये दि.०७ ऑक्टोबर, २०१७ रोजी दिलेले आदेश.

परिपत्रक

राज्यातील सर्व घटक पोलीस प्रमुखांचे लक्ष या कार्यालयाच्या संदर्भामधील नमूद परिपत्रकाकडे वेधण्यात येत आहे, त्याची छायांकित प्रत यासोबत पुन्हा सुलभ संदर्भाकरिता जोडलेली आहे. या परिपत्रकामध्ये पोलीस कर्मचारी ते पोलीस निरीक्षक दर्जापर्यंतचे पोलीस कर्मचारी आणि अधिकारी यांचा सामान्य पदावधी पूर्ण होण्याआधी जर महाराष्ट्र पोलीस अधिनियम, १९५१ मधील कलम २२न (२) मधील निकषांच्या आधारावर बदली करावयाची असल्यास कोणती योग्य ती कार्यवाही करणे आवश्यक आहे, याचा ऊहापोह करण्यात आलेला आहे.

०२. राज्यातील सर्व घटक पोलीस प्रमुखांच्या त्यांच्याकडे असलेल्या पोलीस आस्थापना मंडळ (संक्षिप्त "पो.आ.मं.") यांना पोलीस कर्मचारी ते पोलीस निरीक्षक पर्यंत सामान्य पदावधी पूर्ण होण्याच्याआधी असलेल्या अधिकाराच्याबाबतीत नुकतेच मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, नागपूर खंडपीठाने, विषयांकित नमूद प्रकरणांत पो.आ.मं.क्र.२ यांनी केलेली कार्यवाही कायदेशिर व योग्य असल्याबद्दल महत्वाची निरीक्षणे केलेली आहे.

०३. उपरोक्त विषयात नमूद केल्याप्रमाणे मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, नागपूर खंडपीठासमक्ष पोलीस निरीक्षक श्री.प्रमोद सिताराम डोंगरे यांची चंद्रपूर जिल्ह्यातील राजुरा पोलीस स्टेशन येथून नागपूर शहर येथे पोलीस आस्थापना मंडळ क्र.२ यांनी दि.३०/०९/२०१६ रोजी निर्गमित केलेले बदलीचे आदेश उपरोक्त मूळ अर्जामध्ये आढावित केले होते.

०४. याप्रकरणी मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, नागपूर खंडपीठाने दि.०७ ऑक्टोबर, २०१७ रोजी न्यायनिर्णय दिला आहे, सोबत त्याची छायांकित प्रत जोडली आहे. या आदेशातील मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण यांची महत्वाची निरीक्षणे/ न्यायनिवाडा/ Ratio खालीलप्रमाणे राज्यातील सर्व घटक पोलीस प्रमुखांच्या माहितीसाठी पुनर्मुद्रित करण्यात येत आहे.

9. As per the provisions of Section 22 (J2) (b) the Police Establishment Board no.2 is authorised to pass posting and transfer orders of the Officers to the level of Police Inspector out of District.

The said Section reads as under :-

“22J2 - Functions of Police Establishment Board at District Level

The Police Establishment Board at District Level shall perform the following functions, namely –

(a) The Board shall decide all transfers, postings of Police Personnel to the rank of Police Inspector within the District Police Force.

(b) The Board shall be authorised to make appropriate recommendations to the Police Establishment Board no.2 regarding the postings and transfers out of the District.

Explanation – For the purposes of this section, the expression “Police Personnel” means a Police Personnel to the rank of Police Inspector”.

10. The Id. P.O. has also placed on record the Minutes of the meeting in which the applicant's transfer was considered. In the said Minutes of the meeting the conduct of the applicant has been considered and it was also considered as to whether the working of the applicant at Rajura in the given circumstances would be desirable. It seems that the overall manner of working by applicant was considered and the Members of the Board came to the conclusion that it was not desirable to keep the applicant at Rajura in the interest of public and that it was an unexceptional case whereby it was necessary to transfer him out of Chandrapur district and therefore it was decided to transfer the applicant at Nagpur. The Minutes of the meeting are well supported by the various documents which were placed before Competent Committee.

11. As already stated the Police Establishment Board at District level can decide all transfers, postings of police personnel to the rank of Police Inspector within the District Police Force it includes any transfer including mid-term transfer or mid tenure transfer. The only embargo is that if the transfer is to be made out of District, then the Police Establishment Board at district level has to make recommendation to the Police Establishment Board no.2. In this case the same has been done and accordingly the Police Establishment Board no.2 has passed the order of transfer of the applicant. The Tribunal is not expected to go into the details of the Minutes of the meeting and prima facie it seems that the Board has considered the conduct of the applicant and his way of working and came to the conclusion unanimously that it will be in the public interest to transfer the applicant out of Rajura, i.e., Chandrapur District. The Tribunal is not expected to interfere in such administrative decision taken by the Competent Authority established under law. It is nowhere seen from the impugned order that it is in any manner punitive. Even for the argument sake, it is accepted that there were complaints against the applicant, the applicant was not transferred on account of such complaint but on the basis of his overall working at particular Station for which admittedly preliminary inquiry was also held. I have carefully gone through the Judgments on which the respondent have relied upon such as Judgment in W.P. 1277/2016 passed by the Hon'ble High Court of Judicature of Bombay at Bench Aurangabad on 5/5/2016 in the case of **Sanjay Gulabrao Deshmukh vs. State & Ors.**, O.A.455/2015 passed by Maharashtra Administrative Tribunal, Bench at Auraganbad on 3/11/2015 in case of **Omprakash Dhondiram Mane vs. The Director General of Police, Maharashtra State, Mumbai & ors.**, and the Review Petition in the same case bearing no.10/2015 on 14/12/2015. I have also gone through Judgment in W.P. no.14200/2016 passed by the Hon'ble High Court of Judicature at Bombay on 20/1/2017 in the case of **State of Maharashtra Vs. S.K. Kasbse & Ors.**

12. Perusal of the documents on record so also the original Minutes of meeting of the Police Establishment Board no.2 clearly shows that the Police Establishment Board has considered all the pros and cons of the case against the applicant and it came to the conclusion that the recommendation for transfer of the applicant out of district was in the public interest and therefore in the such circumstances it will not be in the interest of administration as well as in the interest of justice to interfere in the transfer of the applicant. Hence, the following order :-

ORDER

The O.A. stands dismissed with no order as to costs.

०५. थोडक्यात, वरील मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, नागपूर खंडपीठ यांनी नोंदविलेले Ratio/ निरीक्षणे राज्यातील सर्व घटक पोलीस प्रमुखांच्या निदर्शनास आणण्यात येत आहे की, कोणत्याही पोलीस कर्मचारी ते पोलीस अधिकारी पर्यंतच्या पोलीस अधिका-यांची जर महाराष्ट्र पोलीस अधिनियम, १९५१ मधील कलम २२न(२) मधील तरतुदीनुसार म्हणजे (1) Exceptional cases (2) Public Interest and (3) On account of Administrative exigency या तीघही निकषांच्या आधारावर ज्याप्रकरणामध्ये सामान्य पदावधी (Normal Tenure) पूर्ण होण्याच्या आधी जर संबंधित पोलीस आस्थापना मंडळाला बदली करावयाची असेल तर, तशा सुयोग्य प्रकरणात ज्या कर्मचारी/ अधिकारी (पो.नि.पर्यंत) यांची त्यांच्या प्रतिकूल कामगिरीवरून किंवा त्यांच्या प्रतिकूल वर्तणुकीच्या आधारावर बदली करावयाची असल्यास त्यांच्या वर्तणुकीच्याबाबतीत संबंधित घटक पोलीस प्रमुखांनी निपक्षपातीपणे प्रथमतः प्राथमिक चौकशी करणे आवश्यक आहे.

०६. अशा प्राथमिक चौकशीमध्ये, ज्या पोलीस कर्मचारी/ अधिका-यांचा (पो.नि.पर्यंत) सामान्य पदावधी पूर्ण होण्याच्याआधी बदली करावयाची असेल, तर त्यांचा सुध्दा अशा प्राथमिक चौकशीमध्ये जबाब नोंदवून घेणे आवश्यक आहे.

०७. अशाप्रकारे सर्व जाब-जबाबाची नोंदणी केल्यानंतर, जर प्राथमिक चौकशीमध्ये ज्या अशा संबंधित पोलीस कर्मचारी/ अधिका-यांचा (पो.नि.पर्यंत) सामान्य पदावधी पूर्ण होण्याआधी बदली करावयाची असेल, त्यांच्याविरुद्ध प्राथमिक चौकशीमध्ये सकृतदर्शनी त्यांनी त्यांची वर्तणूक प्रतिकूल आढळल्याची बाब पुढे आल्यास, अशा प्राथमिक चौकशीचा अहवाल त्याच्या सर्व कागदपत्रांसह संबंधित "पोलीस आस्थापना मंडळासमक्ष" ठेवणे आवश्यक आहे.

०८. अशाप्रकारे प्राथमिक चौकशीचा अहवाल व त्यासोबतचे कागदपत्र संबंधित "पोलीस आस्थापना मंडळासमक्ष" ठेवल्याबाबत व त्यावर पोलीस आस्थापना मंडळाने संबंधित कर्मचारी/ पोलीस अधिकारी यांचा सामान्य पदावधी पूर्ण होण्याच्याआधी बदली करण्याचा निर्णय हा वर नमुद कलम २२न(२) मधील तीघही निकष पूर्ण करित असल्याबाबत स्पष्ट उल्लेख, संबंधित पोलीस आस्थापना मंडळाच्या "इतिवृत्त" मध्ये करणे आवश्यक आहे. अशा इतिवृत्तासोबत संबंधित "प्राथमिक चौकशी अहवाल सहपत्र" म्हणून देखील जोडणे आवश्यक आहे व त्याला योग्य ते पृष्ठ क्रमांक देणे देखील आवश्यक आहे. पोलीस आस्थापना मंडळाचा अशाप्रकारे निर्णय घेतांना बैठकीचा दिनांक किंवा सदरील बाब वर्तूळीत पध्दतीने संबंधित "पोलीस आस्थापना मंडळ" समक्ष ठेवण्यांत आले असल्यास तसे स्पष्ट नमुद करणे आवश्यक आहे.

०९. तरी वरील सर्व बाबी राज्यातील सर्व पोलीस आस्थापना मंडळ यांनी त्यांच्या अखत्यारितील पोलीस कर्मचारी ते पोलीस निरीक्षक पदापर्यंतच्या पोलीस कर्मचारी आणि अधिकारी यांचा सामान्य पदावधी पुर्ण होण्याआधी महाराष्ट्र पोलीस अधिनियम, १९५१ मधील कलम २२न(२) मधील निकष व तरतुदीनुसार बदल्या करतांना कटाक्षाने लक्षात घ्याव्यात, जेणेकरून त्याप्रमाणे कार्यवाही केल्यास मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण किंवा मा.उच्च न्यायालयाकडून अशा पोलीस आस्थापना मंडळांनी केलेली कार्यवाही योग्य व न्यायोचित असल्याचे निर्णय मा.संबंधित महाराष्ट्र प्रशासकीय न्यायाधिकरण/ मा.उच्च न्यायालयाकडून आपणांस मिळू शकतील.

संलग्न:- वरिलप्रमाणे.



(राजकुमार व्हटकर)

विशेष पोलीस महानिरीक्षक (आस्थापना),
पोलीस महासंचालक, म.रा., मुंबई यांचे करिता.

प्रति,

सर्व पोलीस आयुक्त,
अपर पोलीस महासंचालक, लोहमार्ग, महाराष्ट्र राज्य, मुंबई.
अपर पोलीस महासंचालक, रा.रा.पो.बल., मुंबई.
अपर पोलीस महासंचालक, प्रशिक्षण व खास पथके, म.रा.मुंबई.
अपर पोलीस महासंचालक, वाहतूक, म.रा., मुंबई.
अपर पोलीस महासंचालक, दहशतवाद विरोधी पथक, महाराष्ट्र राज्य, मुंबई.
अपर पोलीस महासंचालक व संचालक, बिनतारी संदेश, म.रा.पुणे.
अपर पोलीस महासंचालक, विशेष कृती, महाराष्ट्र राज्य, मुंबई.
संचालक, महाराष्ट्र पोलीस अकादमी, नाशिक.
संचालक, महाराष्ट्र गुप्तवार्ता प्रबोधिनी, पुणे.
विशेष पोलीस महानिरीक्षक (नविअ), नागपूर
विशेष पोलीस महानिरीक्षक, सुरक्षा, दादर मुंबई.
सर्व परिक्षेत्रीय विशेष पोलीस महानिरीक्षक.
विशेष पोलीस महानिरीक्षक, मोटार परिवहन विभाग, म.रा.पुणे.
विशेष पोलीस महानिरीक्षक, ना.ह.सं., मुंबई.
विशेष पोलीस महानिरीक्षक, राज्य राखीव पोलीस बल, पुणे/ नागपूर.
सर्व पोलीस अधीक्षक
सर्व समादेशक, रा.रा.पो.बल.गट १ ते १६
सर्व प्राचार्य, पोलीस प्रशिक्षण विद्यालय
प्राचार्य, युओटीसी, नागपूर.
उपसंचालक, डी.टी.एस.नाशिक

प्रत :- महासंचालक, ॲन्टी करप्शन ब्युरो, महाराष्ट्र राज्य, मुंबई (सन्नेह)
आयुक्त, राज्य गुप्तवार्ता विभाग, म.रा., मुंबई.
अपर पोलीस महासंचालक, गु.अ.वि., म.रा. पुणे.

प्रत सविनय सादर

अपर मुख्य सचिव, महाराष्ट्र शासन, गृहविभाग, मंत्रालय, मुंबई.

प्रत :- पोलीस महासंचालक, महाराष्ट्र राज्य, मुंबई यांचे कार्यालयातील सर्व कार्यासन अधिकारी.



क्र.पोमसं/१४-अ/६७/एमएम/१८७/२०१६.
महाराष्ट्र राज्य पोलीस मुख्यालय,
शहीद भगतसिंग मार्ग, कुलाबा,
मुंबई. दिनांक - ०७/१०/२०१६

परिपत्रक

विषय :- पोलीस अधिका-यांची मुदतपूर्व बदली करण्याबाबतची मार्गदर्शक सुचना.

सर्व पोलीस घटक प्रमुखांना सुचित करण्यात येते की, पोलीस आस्थापना मंडळ क्र.२ कडे मुदतपूर्व बदलीचे प्रस्ताव पाठवितांना खालील बाबींचे पालन करावे.

०१. ज्या पोलीस अधिका-यांची बदली करावयाची आहे, त्यांच्या कसुरीबाबत, गैरकृत्याबाबत अथवा बेजबाबदार वर्तणूकीबाबत, वरिष्ठ अधिका-यांकडून प्राथमिक चौकशी करून घ्यावी. सदरील चौकशी संक्षिप्त स्वरूपाची असावी. त्या चौकशीमध्ये कसुरदार अधिका-याचा जबाब नोंदविणे अत्यंत आवश्यक आहे. (नैसर्गिक न्यायदानाच्या तत्वानुसार त्यांना योग्य ती संधी देणे आवश्यक असल्याने)

०२. चौकशीच्या निष्कर्षामध्ये कसुरदार अधिका-याचा दोष सकृतदर्शनी सिध्द होणे आवश्यक आहे, निर्विवादपणे सिध्द होत नसल्यास, तशी संशयास्पद वर्तणूक वाटते काय? ते स्पष्टपणे नमुद असणे आवश्यक आहे.

०३. चौकशी निष्कर्षामध्ये अधिका-यांची त्या पदावर/जिल्ह्यात/ परिक्षेत्रात/ आयुक्तालयात कार्यरत राहिल्यास प्रशासकीय गैरसोय कशी होणार आहे, नागरिकांना कसा त्रास होणार आहे इ. स्पष्टपणे नमुद करण्यात यावे.

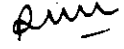
०४. कसुरदार अधिका-यांना त्यांचे कर्तव्य बजाविण्यात मागील १ ते २ वर्षात दिलेले मेमो, गुन्ह्या संदर्भात घेतलेले चेक्स, मागविण्यात आलेले खुलासे/ स्पष्टीकरण, स्टेशन डायरी नोंद, अचानक भेटीची टिप्पणीमधील प्रतिकूल शेरे इ. जमा करून ते एकत्रितपणे कसुरी अहवालाबाबत पाठविणे आवश्यक राहिल. कसुरदार अधिका-याविरुद्ध जनतेकडून/ लोकप्रतिनिधीकडून प्राप्त झालेली तक्रार व त्या अनुषंगाने चौकशी करून त्याचा समावेश कसुरी अहवालात असावा.

०५. ज्या अधिका-यांची वर्तणूक योग्य वाटत नाही. त्यांना वेळोवेळी मेमो देऊन त्यांची एकत्रितरित्या साठवणूक करून भविष्यातील त्यांच्याविरुद्ध चौकशीनुसार त्याचा वापर करावा. कसुरदार अधिका-याचे गोपनीय अभिलेखावर प्रतिकूल शेरे असतील, तर त्याबाबतचा उल्लेख करावा. मुदतपूर्व बदली करतांना "जनहितार्थ" व प्रशासकीय सोयीचे म्हणजे "In public interest and for administration exigency" या बाबींचा विचार करण्यात येतो. म्हणून

कसुरदार अधिका-यांना जिल्ह्यात/ आयुक्तालयात त्या पदावर कार्यरत ठेवणे जनहितार्थ कसे योग्य नाही, हे स्पष्टपणे कसुरी अहवालात नमुद असणे आवश्यक आहे. त्याशिवाय कसुरी अहवाल सादर करू नये. कसुरदार अधिकारी त्यांच्या बदलीनंतर भा. महाराष्ट्र प्रशासकीय न्यायाधिकरणासमक्ष दावा दाखल करू शकतो. म्हणून त्याची पुर्वतयारी म्हणून परिपूर्ण कसुरी सिध्द करून मगच तशी बदली करणे उचित होईल.

०६. वरील सर्व बाबींची तंतोतंत पूर्तता करून त्याप्रमाणे अहवाल या कार्यालयास पाठविणे आवश्यक आहे.

०७. सदरची प्रक्रिया जिल्ह्यांतर्गत, परिक्षेत्रांतर्गत किंवा पोलीस आयुक्तालयांतर्गत बदली करतांना सुध्दा अंमलात आणावी की, जेणेकरून संबंधित अधिका-यांची बदली ही न्याय्य कारणाकरिता करण्यात आल्याबाबत, प्रकरणात मा. महाराष्ट्र प्रशासकीय न्यायाधिकरणासमक्ष योग्यरित्या बाजू मांडता/ हाताळता येणे शक्य होईल.


(राजकुमार कटकर)

विशेष पोलीस महानिरीक्षक (आस्थापना)
पोलीस महासंचालक, म.रा.मुंबई यांचे करिता.

प्रति,

सर्व पोलीस आयुक्त,
अपर पोलीस महासंचालक, लोहमार्ग, महाराष्ट्र राज्य, मुंबई.
अपर पोलीस महासंचालक, रा.रा.पो.बल., मुंबई.
अपर पोलीस महासंचालक, प्रशिक्षण व खास पथके, म.रा.मुंबई.
अपर पोलीस महासंचालक, वाहतूक, म.रा.,मुंबई.
अपर पोलीस महासंचालक, दहशतवाद विरोधी पथक, महाराष्ट्र राज्य, मुंबई.
अपर पोलीस महासंचालक व संचालक, बिनतारी संदेश, म.रा.पुणे.
अपर पोलीस महासंचालक, विशेष कृती, महाराष्ट्र राज्य, मुंबई.
संचालक, महाराष्ट्र पोलीस अकादमी, नाशिक.
संचालक, महाराष्ट्र गुप्तवार्ता प्रबोधिनी, पुणे.
विशेष पोलीस महानिरीक्षक (नविअ), नागपूर
विशेष पोलीस महानिरीक्षक, सुरक्षा, दादर मुंबई.
सर्व परिक्षेत्रीय विशेष पोलीस महानिरीक्षक.
विशेष पोलीस महानिरीक्षक, मोटार परिवहन विभाग, म.रा.पुणे.
विशेष पोलीस महानिरीक्षक, ना.ह.सं., मुंबई.
विशेष पोलीस महानिरीक्षक, राज्य राखीव पोलीस बल, पुणे/ नागपूर.
सर्व पोलीस अधीक्षक
सर्व समादेशक, रा.रा.पो.बल.गट १ ते १६
सर्व प्राचार्य, पोलीस प्रशिक्षण विद्यालय
प्राचार्य, युओटीसी, नागपूर.
उपसंचालक, डी.टी.एस.नाशिक

प्रत :- महासंचालक, लाचलुचपत प्रतिबंधक विभाग, महाराष्ट्र राज्य, मुंबई (सस्नेह)
आयुक्त, राज्य गुप्तवार्ता विभाग, म.रा.,मुंबई.
अपर पोलीस महासंचालक, गु.अ.वि., म.रा. पुणे.

प्रत सविनय सादर

अपर मुख्य सचिव, महाराष्ट्र शासन, गृहविभाग, मंत्रालय, मुंबई.

प्रत :- पोलीस महासंचालक, महाराष्ट्र राज्य, मुंबई यांचे कार्यालयातील सर्व कार्यासन अधिकारी.

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 770 of 2016**

Pramod S/o Sitaram Dongre,
Aged about 53 years, Occ. Service,
R/o Ramkrishna Society-2,
Narendra Nagar, Nagpur.

(For Private Use only)

Applicant

Versus

1) State of Maharashtra,
through its Additional Chief Secretary,
Home Department,
having its office at Mantralaya,
Mumbai-400 032.

2) Director General of Police,
having office at near Regal Theatre Colaba,
Mumbai.

3) Superintendent of Police,
Chandrapur.

Respondents

Shri S.P. Palshikar, Advocate for the applicant.

Shri S.A. Sainis, Id. P.O. for the respondents.

Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).

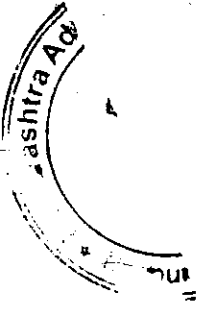
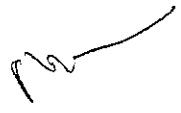
JUDGEMENT

(Delivered on this 7th day of October, 2017)

Heard Shri S.P. Palshikar, Id. Counsel for the applicant
and Shri S.A. Sainis, Id. P.O. for the respondents.

2. Shri Pramod Sitaram Dongre is the Police Inspector since
2008. In 2014 the applicant was working at Nagpur and was

transferred to Police Station Sawali, Dist. Chandrapur. On 6/5/2014 he was again transferred from Police Station, Sawali, Dist. Chandrapur to Police Station, Rajura, Dist. Chandrapur and at the time of impugned order of his transfer dated 29/9/2016 he was at Rajura, Dist. Chandrapur. Vide impugned order dated 29/9/2016 the applicant has been transferred from the post of Police Inspector, Police Station, Rajura, Dist. Chandrapur to Police Station, Nagpur city and was also relieved from the said post immediately on 30/9/2016. The applicant has challenged both these orders, i.e., his order of transfer dated 29/9/2016 and relieving order dated 30/9/2016 in this O.A. According to the applicant, as per the Maharashtra Police Act, the normal tenure of the Police Officer in the district is two years, but before completion of that normal tenure the applicant has been transferred. The said order is therefore mid-term and mid tenure and against the provisions of the Maharashtra Police Act. The respondent no.2, i.e., the Director General of Police, Mumbai has no authority to ~~issue transfer order of the applicant.~~ The impugned order of transfer ~~on complaint is also illegal and the same has been decided by the~~ Principal Bench of this Tribunal in O.A. 191/2015 on 26/10/2015 and O.A.609/15 on 11/3/2015 and by the Hon'ble Tribunal, Bench at Nagpur Bench in O.A.609/15 decided on 11/3/2015 and O.A.446/467 decided on 12/7/2016 and also again by this Tribunal in O.A.309/2016.





3. It is stated that the applicant is sincere and hard working Police Officer and his ACRs. are Outstanding and such a person is transferred abruptly without completing his normal tenure then certainly a stigma upon the person. The applicant has therefore prayed that both the impugned orders, i.e., dated 29/9/2016 and 30/9/2016 be quashed and set aside and respondents be directed to allow the applicant to continue to work at Police Station, Rajura, Dist. Chandrapur.

4. Vide order dated 30/1/2017 the Hon'ble Chairman of this Tribunal was pleased to direct the respondent no.2, i.e., the Director General of Police, Mumbai himself to affirm the affidavit by calling papers of the O.A. and reading those himself and with other directions.

5. Accordingly, the reply-affidavit has been filed by the respondent no.2. The tenor of the reply-affidavit shows that the applicant's case for transfer was recommended by the Police Establishment Board no.1 to Police Establishment Board no.2 as the conduct of the applicant was not in the public interest and was undesirable. The respondents denied that the service record of the applicant is clean and unblemished and he was working to the utmost satisfaction of his superiors. It is admitted that the applicant has not completed his normal tenure of two years at Rajura Police Station but

it is stated that the said tenure has been curtailed by the Police Establishment Board no.2 invoking the powers conferred upon it to effect the mid-tenure transfer after carefully scrutinising the facts and circumstances. The respondents have also placed reliance on the Judgment delivered by the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad Bench in Writ Petition No. 722/2015 and particularly Para nos. 7 to 11 of the said Judgment and also the order passed in WP 1277/2016. The respondents have also placed reliance on the various Judgments of this Tribunal such as O.A.455/2015 in case of one Shri O.D. Mane decided by the Tribunal at Aurangabad Bench on 3/11/2015 and so on. According to the respondents the Competent Authority has every right to transfer the employee as per the provisions of the Maharashtra Police Act and such powers are given to Police Establishment Board no.2. It is stated that the case of the applicant was considered in the Police Establishment Board by all the Members and the Members were satisfied about the alleged misconduct or undesirability or unbecoming conduct of the applicant and therefore unanimously decided to transfer the applicant out of district and has also recorded reasons for the same. It is however made clear that the transfer is not affected as a punishment. Reliance has been placed on the Judgment of Hon. Supreme Court of India in the case of Union of India and Ors Vs. Shri Janardhan Debanath and Ano. In which the Hon'ble Supreme

Maharashtra
* Nagpur



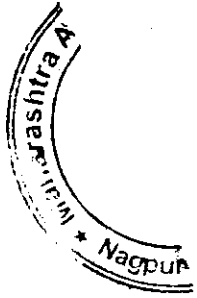


Court has laid down the ratio that transferring the Govt. employee utter finding him/her undesirable and unbecoming cannot be term as punitive transfer. The copy of the said Judgment is also placed on record as A-A-7.

6. As regards the applicant it is stated that an inquiry was conducted by Dy. Superintendent of Police probationer about sale of 2 Trucks seized by Rajura Police. These 2 trucks were parked at Sasti Outpost and were in custody of Head Constable Shri Musale working as Muddemal Mohrar. The Head Constable did not follow the procedure while disposing of this property and has kept the sale process with himself. When the purchaser of the Truck inquired the applicant who was having knowledge of the sale, his statement was recorded and the conduct of the applicant was found doubtful. The Superintendent of Police, Chandrapur submitted default report alongwith several correspondence made by him with applicant and also mentioned about the inability of the applicant to control illicit activities in his jurisdiction. The Superintendent of Police, Chandrapur also issued several memorandum and demy official letters for improving the conduct of the applicant. All these correspondence is placed on record at Annex-A-6.

7. According to the respondents all the papers were placed before Police Establishment Board no.2, i.e., the Competent Authority

to pass transfer order and the said Committee in its meeting discussed the matter. As already stated all the Members of the Committee were satisfied about the misconduct or undesirability or unbecoming conduct of the applicant and therefore unanimously decided to transfer the applicant. The transfer was not however not effected as a punishment as mentioned by the applicant in para-7 (vi).



8. Perusal of the transfer order which is at P.B. page-14 (Annex-A-1) dated 29/9/2016 is an order passed by Police Establishment Board no.2 wherein it is mentioned that the Board has considered the report against the applicant and relevant documents and has come to the conclusion that the applicant be transferred out of Chandrapur District and therefore the applicant was transferred to Nagpur City.

9. As per the provisions of Section 22 (J2) (b) the Police Establishment Board no.2 is authorised to pass posting and transfer orders of the Officers to the level of Police Inspector out of District. The said Section reads as under :-

"22J2 - Functions of Police Establishment Board at District Level

The Police Establishment Board at District Level shall perform the following functions, namely -

- (a) The Board shall decide all transfers, postings of Police Personnel to the rank of Police Inspector within the District Police Force.*
- (b) The Board shall be authorised to make appropriate recommendations to the Police Establishment Board no.2 regarding the postings and transfers out of the District.*

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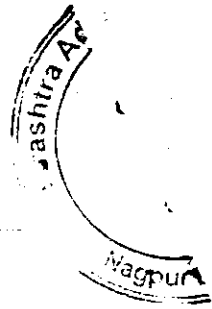
Explanation – For the purposes of this section, the expression "Police Personnel" means a Police Personnel to the rank of Police Inspector".



10. The Id. P.O. has also placed on record the Minutes of the meeting in which the applicant's transfer was considered. In the said Minutes of the meeting the conduct of the applicant has been considered and it was also considered as to whether the working of the applicant at Rajura in the given circumstances would be desirable. It seems that the overall manner of working by applicant was considered and the Members of the Board came to the conclusion that it was not desirable to keep the applicant at Rajura in the interest of public and that it was an unexceptional case whereby it was necessary to transfer him out of Chandrapur district and therefore it was decided to transfer the applicant at Nagpur. The Minutes of the meeting are well supported by the various documents which were placed before Competent Committee.

11. As already stated the Police Establishment Board at District level can decide all transfers, postings of police personnel to the rank of Police Inspector within the District Police Force it includes any transfer including mid-term transfer or mid tenure transfer. The only embargo is that if the transfer is to be made out of District, then the Police Establishment Board at district level has to make recommendation to the Police Establishment Board no.2. In this case

the same has been done and accordingly the Police Establishment Board no.2 has passed the order of transfer of the applicant. The Tribunal is not expected to go into the details of the Minutes of the meeting and prima facie it seems that the Board has considered the conduct of the applicant and his way of working and came to the conclusion unanimously that it will be in the public interest to transfer the applicant out of Rajura, i.e., Chandrapur District. The Tribunal is not expected to interfere in such administrative decision taken by the Competent Authority established under law. It is nowhere seen from the impugned order that it is in any manner punitive. Even for the argument sake, it is accepted that there were complaints against the applicant, the applicant was not transferred on account of such complaint but on the basis of his overall working at particular Station for which admittedly preliminary inquiry was also held. I have carefully gone through the Judgments on which the respondent have relied upon such as Judgment in W.P. 1277/2016 passed by the Hon'ble High Court of Judicature of Bombay at Bench Aurangabad on 5/5/2016 in the case of Sanjay Gulabrao Deshmukh vs. State & Ors., O.A.455/2015 passed by Maharashtra Administrative Tribunal, Bench at Auraganbad on 3/11/2015 in case of Omprakash Dhondiram Mane vs. The Director General of Police, Maharashtra State, Mumbai & ors., and the Review Petition in the same case bearing no.10/2015 on 14/12/2015. I have also gone through



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Judgment in W.P. no.14200/2016 passed by the Hon'ble High Court of Judicature at Bombay on 20/1/2017 in the case of State of Maharashtra Vs. S.K. Kasbse & Ors.

12. Perusal of the documents on record so also the original Minutes of meeting of the Police Establishment Board no.2 clearly shows that the Police Establishment Board has considered all the pros and cons of the case against the applicant and it came to the conclusion that the recommendation for transfer of the applicant out of district was in the public interest and therefore in the such circumstances it will not be in the interest of administration as well as in the interest of justice to interfere in the transfer of the applicant. Hence, the following order :-

ORDER

The O.A. stands dismissed with no order as to costs.

dnk.



- (a) Sr. No of the Application 548/17
 (b) Name of Applicant/Respondent
Respondent No. 3
 (c) Fees Charge ~~urgent~~ Ordinary 10/-
 (d) Total pages 09
 (e) Copy Applied on 11/10/2017
 (f) Copy Ready on 12/10/2017
 (g) Copy Delivered on 16/10/2017

Hele
 12/10/17 Asstt./Dy. Registrar
 Assistant Registrar/ Research Officer
 Maharashtra Administrative Tribunal
 Nagpur