

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 497 OF 2018

Shantaram D. Khade	...Petitioner
Versus	
The Superintendent of Police	
Vishrambaug and anr.	...Respondents

Mr. Sandeep Dere for the for Petitioner.
Mr. O.M. Kulkarni, AAGP for the Respondent / State.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.**

DATE : 22nd MARCH 2018.

P.C.

1] Heard learned counsel for the parties.

2] Mr Sandeep Dere, learned counsel for the petitioner, submits that the impugned transfer order is punitive in nature and since, the same was effected without even minimum compliance with principles of natural justice and fair play, the Maharashtra Administrative Tribunal (MAT), ought to have interfered with the same. He points out that there is error apparent on the face of record in the impugned judgment and order made by the MAT, inasmuch as the MAT has proceeded on the basis that it is the

petitioner, who had requested for transfer to the Sangli City Police Station. Mr. Dere points out that the petitioner had requested for a transfer to the special squad at Sangli and even today, if the petitioner is transferred to the special squad, the petitioner has no objection to such transfer. However, at no stage, had the petitioner requested for any transfer to Sangli City Police Station. For these two reasons, Mr. Dere submits that the impugned transfer order may be set aside.

3] Without prejudice, Mr. Dere, on the basis of instructions from the petitioner, submits that in case it is clarified that the transfer of the petitioner is not punitive, then, the petitioner, will not press for any reliefs in this petition.

4] In this case, the so called transfer/posting of the petitioner is from the Economic Offence Wing (EOW), Sangli to Sangli City Police Station. This is not a case of transfer from one city to another city, much less, from one district to another. In such circumstances, we enquired from learned AAGP as to whether the respondents would

consider clarifying the position that the impugned transfer was not intended to be a punitive transfer. Learned AAGP requested for some time to obtain instructions and the matter was accordingly adjourned.

5] On the returnable date, Suhail Sharma, Superintendent of Police has filed an affidavit dated 21st March 2018 on behalf of the respondents. Paragraph 6, of which, reads as follows:

"6. I say that the transfer Order dt. 31.5.2017 thereby transferring the Petitioner from Economic Offences Wing to Sangli City Police Station has not been passed as a punishment or as punitive order. I say that the petitioner has been transferred on account of administrative reasons and as such the said transfer order shall not have any adverse bearing on the service record of the petitioner."

6] Although, from the aforesaid averments in the affidavit, it was very clear that the impugned transfer was not made as a punishment, learned counsel for the petitioner pointed out to the averments in the paragraph 4 of the affidavit, which makes reference to a report dated 10th May 2017 from Incharge of EOW, Sangli. Learned counsel for the petitioner submitted that it would be better if such averments are deleted, so that there is no doubt

that the impugned transfer order is not regarded as a punishment or treated as a punitive order.

7] Although, this was not strictly speaking necessary, we adjourned the matter to the afternoon session, so as to enable the learned AAGP to obtain instructions from the deponent, who is presently posted at Kolhapur. In the afternoon session, learned AAGP stated that he has received instructions on e-mail for the deletion of averments in the paragraph 4 of the affidavit dated 21st March 2018. Based upon the same, the averments in paragraph 4 of the affidavit came to be deleted.

8] In view of the aforesaid deletion of paragraph 4 of the affidavit and the statement in paragraph 6 of the affidavit quoted above, learned counsel for the petitioner has consented to disposal of this petition as not pressed by the petitioner. These statements are made on the basis of instructions from the petitioner. Even we are satisfied that there is nothing punitive in the impugned order which is really made on account of exigency of service.

9] For all the aforesaid reasons, this petition is disposed of as not pressed. There shall however, be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)