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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6019 OF 2014

Prakash Sakru Chavan

PETITIONER

VERSUS

The State of Maharashtra & others

RESPONDENTS

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Mr. S. S. Jadhavar, Advocate for the petitioner

Mr. K. G. Patil, AGP for respondent State

Mr. A. S. Bajaj, Advocate for respondent No.2

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[CORAM : S. V. GANGAPURWALA AND
V. L. ACHLIYA, J.J.]

DATE : 8th JANUARY, 2015

PER COURT:

1. Mr. Jadhavar, learned advocate submits that the petitioner joined services of Maharashtra State Electricity Distribution Company Limited (MSCDCL) on 10th September, 2008, as a Junior Engineer, at Jalna. On 4th December, 2012 the petitioner was transferred from Jalna to Paithan. Thereafter, the petitioner was posted at Ambad sub division on 9th April, 2014. On 10th July, 2014, again the petitioner is issued impugned transfer order, transferring the petitioner to a different zone i.e. Nagpur Zone.

2. The petitioner submits that rules of transfer governing parties do not permit respondent No. 2 to transfer the petitioner out of the Zone within 25 years. Learned advocate submits that the respondents are duty bound to adhere to the transfer policy. No reason is given for transferring the petitioner. Even the place of transfer is not notified in the impugned order. The order of transfer is *malafide* and is issued only at the behest of a particular person. Even on administrative grounds, transfer out of zone cannot be effectuated, within a period of 25 years. Learned advocate refers to a circular dated 1st December, 2011 governing transfers. According to the petitioner, the petitioner comes in group III.

3. Mr. Bajaj, learned advocate for respondent No.2 submits that the petitioner comes in group II and the transfer policy, which is applicable to the petitioner belonging to group II is different. Learned advocate submits that if a person has worked in a particular zone for 25 years, it is mandatory to transfer him out of zone that does not mean that a person cannot be transferred out of zone within 25 years. According to learned advocate, the transfer policy dated 01.12.2011 applicable to group I and group II employees, is clear. Learned advocate

submits that the petitioner is transferred on administrative grounds and there is a criminal case pending, which is filed by an officer of MSCDCL. So also a Departmental Enquiry is pending against the petitioner. Even charge sheet in said Departmental Enquiry is served upon the petitioner. There is no embargo for transferring the petitioner on said grounds.

4. We have considered the submissions canvassed by learned advocates for the parties. There cannot be dispute with the proposition that transfer is incidence of service and the courts would not sit as appellate authority over the orders of transfer passed by competent authorities. The courts would be slow in interfering with such orders, unless it is shown that the order is tainted with *malafides* and is totally in derogation of rules. The transfer policy has been placed on record. As per clause 5 of said transfer policy, the employees involved in Anti corruption cases or serious misconduct are liable to be transferred immediately, irrespective of tenure.

5. It is a fact that the Departmental Enquiry is pending against the petitioner, as charge sheet is also issued. Considering the above, the powers of transfer vests with the respondents.

6. The other contention of the petitioner is that the petitioner

is transferred from Ambad, district Jalna to Nagpur. Mr. Bajaj, learned advocate submits that after the petitioner reports at Nagpur Zone, the petitioner would be posted, as per availability of vacancy there. The respondents shall consider posting the petitioner in said Zone at a place, which would be near to the place where the petitioner was working earlier, of course subject to availability of vacancy.

7. Writ petition accordingly stands disposed of with no order as to costs.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]