

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**LPA No.590 of 2014 (O&M)
Date of Decision: 16.09.2015**

Bharat Electronics Limited & another
.....Appellants
Versus

Union of India & others
....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MRS. JUSTICE NAVITA SINGH**

Present: Mr. Vikas Bahl, Sr. Advocate with
Ms. Balpreet Sidhu, Advocate for the appellants.

Mr. D.R.Sharma, Advocate for respondent No.3.

RAJIVE BHALLA, J (ORAL)

The appellants challenge order dated 09.01.2014,
dismissing the writ petition in limine.

Counsel for the appellants submits that the
reference made by the Central Government, to the Industrial
Tribunal-cum-Labour Court, Chandigarh (hereinafter referred
to as “the Tribunal”), is not sustainable as even a perfunctory
perusal of the appointment letters and clause 8.0 of the
standing order reveals that the workmen may be transferred
to any unit belonging to the appellants, anywhere in India.
Clause 8.0 of the standing order bearing the title “Transfers”
contains a detailed reference to the mode and manner of
transfer thereby setting out guidelines/a policy for transfer.
The reference which is primarily based upon the lack of a

transfer policy is, therefore, contrary to the facts and may be set aside.

Counsel for respondent No.3, fairly concedes that the reference as framed is not tenable but states that the grievance of the workmen that transfer orders are malafide as the transferred workmen are office bearers of the union and that transfers have been made in violation of clause 8.0 of the standing orders, may be directed to be reconsidered.

We have heard counsel for the parties, perused the impugned order as well as the reference made to the Tribunal.

The controversy in the present appeal, apart from the correctness of order dated 09.01.2014, is whether reference made by the Central Government to the Tribunal, is sustainable?

The reference reads as follows:-

“Whether the action of management of Bharat Electronics Ltd, Panchkula in transferring 15 workmen as annexed from Panchkula Unit to other units without any transfer policy is just, fair and legal? If not, what relief the concerned workmen are entitled to.”

A perusal of the reference reveals that the Industrial Tribunal has been called upon to opine whether transfer of 15 workmen without any transfer policy is just, fair and legal.

A prima facie perusal of the appointment letters

reveal that they contain a clause whereby the workmen can be transferred to any unit of the appellant in any part of India. Clause 8.0 of the standing order, titled “Transfers” contains a detailed reference to the mode and manner of transfer thereby in our opinion, setting out guidelines/a policy for transfer. The reference as framed requiring the Tribunal to opine whether transferring 15 workmen from the Panchkula Unit to other units “without any transfer policy”, is just, fair and legal, was apparently made without considering the appointment letters and clause 8.0 of the standing order. As already recorded, clause 8.0 of the standing order titled as “Transfers” contains a detailed reference to the mode and manner of transfer, thereby setting out guidelines/a policy for transfer. Counsel for respondent No.3 has also conceded that clause 8.0 of the standing order contains guidelines/a policy for transfer.

Consequently, we hold that the reference as framed, is contrary to the standing orders and, therefore, not tenable. The reference is set aside but with liberty to the “appropriate Government (Government of India, Ministry of Labour)”, to take a fresh decision in accordance with law, after considering the grievance of the workmen, which in our prima facie opinion may relate to the nature of the transfer orders and not to the absence of a policy and also objections,

if any, that may be raised by the appellants, within a period of six weeks from the date of receipt of certified copy of this order. During this period, transfer orders shall remain in abeyance. The impugned order is, therefore, set aside and the appeal is allowed in the above terms.

[RAJIVE BHALLA]
JUDGE

16.09.2015
Vinay

[NAVITA SINGH]
JUDGE