

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7311 of 2016

Kapil K. Gajbhiye & Anr.

...Petitioners

Versus

Union of India & Ors.

...Respondents

...

Mr. A.S. Rao i/b. Mr. P.C. Kamble for the Petitioners.

Mr. V.A. Gangal, Senior Advocate with Mr. Ashok Gade for the
Respondent Nos.1 to 3.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : 29th JUNE, 2016.

P. C. :

Heard Mr. A.S. Rao, the learned counsel for the Petitioners,
Mr. V.A. Gangal, the learned counsel for the Respondents.

2. The Petitioner by this petition filed under articles 226 and 227 of the Constitution of India have challenged their transfer order dated 17th June, 2016. By the said order the Petitioner No.1 is transferred to Jaduguda, Zharkhand State and Petitioner No.2 is transferred to Tarapur, Maharashtra State. The learned counsel for the Petitioners states that the Petitioners are transferred as they are rendered surplus in respective subjects. The learned counsel relies upon the earlier policy of Atomic Energy Education society and Article

52 to contend that the longest senior teacher must be transferred in the eventuality of surplus staff. The Petitioners have annexed the guidelines for recommending transfer for teachers rendered excess on administrative grounds at Exh.'C'. Under these guidelines parameters for recommending transfer on administrative grounds as well as points to be considered are specified. Under these guidelines the employee getting highest marks is recommended for transfer.

3. Mr. Gangal, the learned counsel appearing for the Respondents states that a committee was appointed to recommend the transfer of the teachers and this committee considered the said parameters and recommended transfers of the Petitioners alongwith ten other teachers.

4. It is not the case of the Petitioners that their transfers are actuated with malafide. The petitioners also do not dispute that their job is transferable. In these circumstances, and since it is a settled position of law that the transfer is an incident of service, we are not inclined to interfere in the petition. The petition is accordingly, dismissed.

5. Mr. Rao, the learned counsel for the Petitioners submits that

the Petitioners be retained at the same place for the period of four weeks. Mr. Gangal, the learned counsel for the Respondents, having taken instructions submits that the Petitioners are already relieved. He however, makes a statement that the Petitioners will be given 12 days period to join at the new posting. Statement is accepted.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)