

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3291 OF 2016

Sanjay Pundlikrao Kamble

-vs-

The Managing Director, Central Warehousing Corporation, New Delhi and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. A. B. Moon, counsel for the petitioner.

CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.

DATE : 15.06.2016.

By this writ petition, the petitioner challenges the order of the Central Warehousing Corporation, dated 30/05/2016 transferring the petitioner from Central Warehouse, Gondia to Central Warehouse, Surat.

The petitioner was appointed as a Junior Technical Assistant by the Central Warehousing Corporation in the year 1991 and was posted in the Central Warehouse, Gondia in 2012. By an order dated 13/10/2015, the petitioner was transferred from the Central Warehouse, Gondia to the Central Warehouse, Surat. The petitioner challenged the order of transfer by filing Writ Petition No.6094 of 2015. It was the case of the petitioner that the petitioner could not have been transferred in the midst of the session without assigning any reason. The writ petition was disposed of by an order, dated 12/04/2016 by permitting the respondent-Corporation to pass a fresh order of transfer in accordance with law within a period of four weeks, after granting an opportunity of hearing to the petitioner, if necessary. It appears that the petitioner was called by the respondents for hearing, but the petitioner did not turn up and hence, the General Manager (Personnel) considered the question of correctness of the order of transfer, dated 13/10/2015 and held that the said order called for no interference. By the order, dated 30/05/2016, the petitioner was

directed to join at Surat. The petitioner has impugned the order, dated 30/05/2016 in the instant petition.

Shri A. B. Moon, the learned counsel for the petitioner, submitted that the impugned order is liable to be set aside, as the order of transfer does not record any reasons and as per Clause 11 of the Posting Policy of the Corporation, it is necessary to record reason while effecting a transfer due to the change in establishment, promotion, unsatisfactory performance and administrative reasons. It is submitted that the petitioner could not have been transferred out of region during the midst of the term.

On hearing the learned counsel for the petitioner and on a perusal of the Posting Policy of the Corporation as also the impugned order dated 30/05/2016, it appears that no ground is made out for interference with the impugned order. It appears that the petitioner was transferred along with 13 other employees in the General Transfer that was effected on 13/10/2015. Since that was a midterm transfer, the petitioner had approached this Court by filing Writ Petition No.6094 of 2015. Though this Court did not find that the transfer was tainted with *mala fides*, this Court directed the respondent-Corporation to reconsider the situation within a period of four weeks so that the transfer could be effected in the month of April-May, 2016. The petitioner was called for hearing by the General Manager (Personnel), but the petitioner did not attend the hearing. Since the matter was to be reconsidered within a period of four weeks, the General Manager (Personnel), reconsidered the situation and by a reasoned order, dated 30/05/2016 held that the order of transfer of the petitioner, dated 13/10/2015 was proper. While holding so, the General Manager (Personnel) considered Regulation No.12 of the Central Warehousing Corporation (Staff) Regulations, 1986 which provides that every employee should serve throughout India. We find that a posting at any place in India was a condition of service of the petitioner and since the impugned order is passed on 30/05/2016 and the petitioner is required to join the Warehouse at Surat in May-June, 2016, it cannot be said that the said transfer is a midterm transfer. We find that only if a

transfer is effected in the midst of the term and without adhering to the tenure, the Authority is required to record reasons. By the impugned order, the petitioner is required to join at Surat in May-June 2016 at the end of the normal term and hence, it was not necessary for the respondent to record any special reasons for transferring the petitioner. This Court has already held while disposing of the earlier petition that the order of transfer of the petitioner was not tainted by *mala fides*. If that be so, the petitioner cannot effectively challenge the transfer order. The impugned order, dated 30/05/2016 is a well reasoned order and none of the reasons recorded in the said order could be faulted with.

In the result, the writ petition fails and is dismissed with no order as to costs.

JUDGE

JUDGE