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

Writ Petition No.6094 of 2015

Sanjay Pundlikrao Kamble.
Vs.
The Managing Director, Central Warehousing Corporation, new Delhi and 3 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 petitioner.
Mr. N.C. Phadnis, counsel for respondents.

CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
DATE : 12th April, 2016.

Heard for some time. We find substance in contention of learned counsel for petitioner that impugned order of transfer does not show any urgent need of relieving petitioner in mid session. The order is dated 13.10.2015 and about 14 employees have been transferred.

Employer has pointed out that a show cause notice was given to petitioner on 16.9.2013. Thereafter other instance of his non-cooperation pressed into service is contained in relieving order dated 20.1.2015. Both these instances are not same and therefore do not have any live link with the order of transfer dated 13.10.2015. If these instances had any bearing on transfer, transfer could have been ordered in April-May 2015.

The learned counsel for petitioner submits that as per guidelines for transfer petitioner is entitled to continue at Gondia Warehouse till the period of five years and he has completed three years. It is further submitted that the mid-session transfer can be sustained only if transfer order carries specific reasons. According to Advocate Phadnis the guidelines are not binding and in absence of plea of malafide, this court cannot intervene in the matter.

This court can interfere in transfer matter only if transfer is shown to be with oblique motive or has been made in violation of the statutory provisions. No statutory provision has been pressed into service before us and when specifically asked as to why petitioner is being served with said show cause notices, the learned counsel expressed his inability to explain. Thus, we do not see any case of malafides also.

However, as per guideline no. 6 mid-session transfer can be ordered after employer records specific reasons on administrative side. The reasons need not be mentioned in transfer order but must appear in file in which decision to transfer has been taken. In reply filed before this court, respondents have not pointed out any such reason to support the decision to transfer implemented in October, 2015.

This court has granted ad interim relief to petitioner on 3.11.2015. Petitioner, therefore, continues to work at Gondia Warehouse.

If regular transfer are to be done, the same can be effected in the month of April-May, 2016.

In this situation, without observing anything on merits and keeping all contentions open, we permit the respondent employer to pass fresh order in relation to transfer in accordance with law within next four weeks. If necessary, an opportunity of hearing may also be extended to petitioner. However, grant of this opportunity shall not be construed as a precedent in any other matter.

With these directions, we dispose of writ petition. No costs.

JUDGE **JUDGE**

Hirekhan