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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3317/2017**

INDIAN AIRPORTS KAMGAR UNION & ANR. Petitioners

Through: **Mr. Manav Kumar & Ms. Nupur,**
Advocates

Versus

AIRPORTS AUTHORITY OF INDIA & ORS. Respondents

Through: **Mr. Digvijay Rai & Mr. V.K.**
Pandey, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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17.04.2017

W.P.(C) 3317/2017 & C.M. 14466/2017 & C.M. 14467/2017

In this petition, petitioner No.1- *Indian Airports Kamgar Union* and its General Secretary i.e. petitioner No.2, are seeking quashing of Transfer Orders of 6th April, 2017 and 10th April, 2017. According to petitioners' counsel vide impugned Transfer Orders, 96 members of petitioner No.1-Union have been transferred in violation of Sub-Section 3 of Section 33 of *The Industrial Disputes Act, 1947* and transfer policy.

Notice.

Mr. Digvijay Rai, Advocate, accepts notice on behalf of respondents and submits that another similar petition by petitioner No.1-Union against the earlier transfer order was dismissed as withdrawn with liberty to approach the Central Government Industrial Tribunal (*henceforth referred to as the "Tribunal"*). He further submits that this petition by petitioner No.1-Union is not maintainable, as it is not a

recognized Union.

This is disputed by petitioners' counsel, who submits in view of urgency involved, he confines this petition to petitioner No.2, while pointing out that petitioner No.2 is a protected workman and so, without express written permission from Central Government Industrial Tribunal, the protected workmen like petitioner No.2 are not to be transferred. It is next submitted by petitioners' counsel that requisite permission has not been obtained and thus, transfer of petitioner No.2 is patently illegal. He further submits that against impugned Transfer Order of 10th April, 2017, petitioner has made a Representation (*Annexure P-10 colly*) against impugned Transfer and till date, he does not know about its fate. It is also pointed out by petitioners' counsel that impugned Transfer Order is also assailed before the Tribunal and on 13th April, 2017 notice has been issued but no interim orders have been passed against impugned Transfer Orders and matter is now coming up before learned Tribunal on 25th May, 2017.

Be that as it may. This petition is entertained in view of urgency involved and keeping in view the fact that Representation (*Annexure P-10 colly*) of petitioner No.2 is said to be still pending, it is deemed appropriate to dispose of this petition with direction to respondents to decide Representation (*Annexure P-10 colly*) by passing a speaking order in conformity with Sub-Section 3 of Section 33 of *The Industrial Disputes Act, 1947* and the applicable transfer policy, within three working days of receipt of a copy of this order. It is made clear that impugned transfer of petitioner No.2 be not acted upon till his Representation (*Annexure P-10 colly*) is decided. Needless to say that if

petitioner No.2 is still aggrieved with the outcome of his Representation, he shall within 48 hours of receiving a copy of the said order, assail the rejection by filing application in pending petition before the Tribunal, who shall within a week decide the application for interim relief by passing a speaking order. Till then, impugned transfer of petitioner No.2 be kept in abeyance.

With aforesaid directions, this petition and applications are disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

APRIL 17, 2017

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