

*rrpillai***IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 1240 OF 2017**

Shrikant Anandrao Patil

... Petitioner

vs.

Grampanchayat, Vadange &amp; Anr.

... Respondents

.....

Mr Ajit M. Savagave for the Petitioner.

None for the Respondent.

.....

**CORAM : A.K. MENON, J.****DATE : 16<sup>th</sup> JANUARY, 2018****P. C.**

1. By this Writ Petition the petitioner calls into question judgment dated 23<sup>rd</sup> December, 2016 passed by the Industrial Court No. 2, Kolhapur dismissing Complaint (ULP) No. 146 of 2015 . The complainant has been transferred from his original post of a peon to the Water Supply Department of the respondent –Gram Panchayat without following due process of law inasmuch as the change in his duties amount to change of service condition and notice under Section 9A has not been issued. The impugned order dated 23<sup>rd</sup> December, 2016 is sought to be set aside by the complainant.

2. The learned Counsel for the petitioner submitted that the undisputed fact is that the petitioner had been transferred to the Water Supply Department by virtue

of resolution dated 29<sup>th</sup> June, 2015 which according to him is illegal and amounted to an unfair labour practice. The petitioner contended that the order of transfer is punitive because despite the fact that he has a clean and unblemished service record, he has been harassed by the transfer to the Water Supply Department. It is contended that on 23<sup>rd</sup> July, 2015 the petitioner made a complaint about the order of transfer to the Gram Panchayat but no steps were taken.

3. Mr. Savagave relied upon decision of this Court in the case of ***King Edward Memorial Hospital, Pune. vs. Suresh D. Gaikwad [2013(1) Mh.L.J 598]*** and submitted that the facts that case are identical to the facts of the present case. In that case the complainant was engaged as a driver and after 14 years of service by written order he was directed to work as a lift operator. No notice of change under section 9-A was issued. The fact in the situation in Gaikwad's case is quite different from one at hand. In Gaikwad's case there was substantial change in the benefits interalia in terms of pay scale. However, in the present case there is absolutely no grievance made on that account, but the only ground training has not been given to him in relation to the work to be done by him in the Water Supply Department.

4. The impugned order records that the resolution dated 29<sup>th</sup> June, 2015 was illegal, but however the fact remains that there is no challenge to the said resolution even today. The complainant was issued Show Cause Notice on 12<sup>th</sup> August, 2015 since he had not joined duties. Today it is submitted by Mr. Savagave that the petitioner has since joined duties in the said department. The impugned order records that in the evidence the complainant-petitioner deposed that the Water

Supply Department is under the control of the respondent- Gram Panchayat and even the office of the Water Supply Department is housed in the office of the Gram Panchayat. There is only partial change in the nature of duties. That apart duties of 5 other employees were also partially changed by the same office order dated 6<sup>th</sup> July, 2015. On a query from the Court learned Counsel for the petitioner has produced the copy of the Office Order which reveals that apart from Shrikant Anandrao Patil- petitioner, five such persons have also been transferred to different departments.

5. In my view there is nothing punitive that is indicated as reason for the transfer to a different department. The impugned order records that the petitioner has been working for one and a half years in the Water Supply Department and that he is doing the work satisfactorily. There is no evidence that he has complained about lack of training. On the other hand paragraph 9 records that he did not complain about lack of training. The grievance of the petitioner is that he was transferred without seeking his consent. In my view there was no occasion to seek his consent. The Gram Panchayat in its wisdom found it necessary to transfer such persons on account of exigencies of the situation. Besides, it has been found that the office of the Water Supply Department where he now works is housed in the same office where he was working earlier. The judgment in the case of *Gaikwad (supra)* is of no assistance to the petitioner.

6. The petitioner has failed to show that there was any change in service conditions and that it is a matter of record that complainant also does not set out

any details of the alleged change in service conditions. Save and except the grievance that no notice under section 9A was given, nothing else is stated. The contentions are vague and unsupported by evidence before the Industrial Court. In the circumstances I find no merit in this writ petition. There is no reason to interfere with the order impugned in the petition. Accordingly, I pass the following order :

- (a) Writ Petition is dismissed.
- (b) No order as to costs.

**(A.K. MENON, J.)**