

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7956 OF 2018

Ramchandra Ranga Devadiga Petitioner
V/s.
Manappuram Finance Ltd., Navi Mumbai & Ors. Respondents

Mr. Vijay Kumar Ghelot for the Petitioner.

Mr. D.S. Sapkale for the Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 5TH DECEMBER, 2018.

P.C. :

1. Heard learned counsel for both the parties.
2. This Writ Petition takes an exception to the order dated 21st June 2018, passed by the Member, Industrial Court, Thane, thereby rejecting the application filed by the present Petitioner to restrain the Respondents from implementing the 'Transfer Order' dated 21st February 2018.
3. The grievance of the Petitioner is that, without mentioning any reason, the 'Transfer Order' was issued to him and it was done under the malafide exercise of the power, as the Petitioner is the Member of the Trade Union.
4. To substantiate this submission, learned counsel for the Petitioner has relied upon the Judgment of the Calcutta High Court in the case of *Sritanu Mukhopadhyay & Ors. Vs. Union of India & Ors., 2008 LAB. I.C. 2486*, wherein it was held that,

“Even when the order of transfer of the employee is passed on administrative ground, those grounds should be mentioned in the order.”

5. Here in the case, it is submitted that, the 'Transfer Order' does not mention any reason. Hence, it was required to be stayed. However, this very Judgment was cited before the Industrial Court and the Industrial Court has rightly distinguished the same; as in the said case, there were guidelines issued by the 'Employer', which were applicable and were to be invoked in case of transfer, even if it was done on the administrative grounds. Here in the case, no such guidelines are issued by the Respondents. In such situation, this Judgment cannot have application to the facts of the present case.

6. The next contention of the Petitioner is that, as he is the Member of the Trade Union, the mala fide action of transfer has been taken; therefore, it was required to be stayed. To substantiate this submission, the reliance is placed on the Judgment of the Madras High Court in the case of *T. Jayapandi Vs. State Express Transport Corporation Limited, Chennai & Ors., 2009 LAB. I.C. 3041*. However, in that case, the 'Transfer Order' was issued immediately after the agitation was undertaken by the Members of the Trade Union, in which the concerned employee therein was involved. In that view of the matter, it was held that,

“As the mala fide is attributed and proved, transfer can be questioned and interfered with.”

7. Here in the case, there is absolutely nothing on record to that effect. Merely because the Petitioner is a Member of the Trade Union, it becomes difficult to accept that any such action of the transfer is taken against him. There must be more than 200 employees, who are the members of such Trade Union. However, no such action is taken against

all those employees. Therefore, it can hardly be accepted that on account of certain malafides, the Petitioner is transferred.

8. Needless to state, that it is entirely the prerogative of the 'Employer' to transfer the employee. Especially in the facts of the present case, where, at the time of accepting the appointment letter, the Petitioner has categorically accepted that he would be liable to be transferred to any present or proposed Branches of the Respondent-Company in the same or different capacity, he can no more raise the grievance.

9. Hence, now there is hardly any substance in the contention raised by the Petitioner to challenge the 'Transfer Order'. Therefore, the impugned order passed by the Industrial Court, rejecting his application for interim relief, does not call for any interference. Writ Petition, being without merits, stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]