

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

Date of Order: May 18, 2018

+ **W.P.(C) 5383/2018 & CM APPL. No. 2092/2018**

VINOD SAINI Petitioner

Through: Mr. Pushpendra Kumar Dhaka,
Advocate

Versus

BHARAT HEAVY ELECTRICALS LTD. & ORS....Respondents

Through: Mr. A K Roy, Advocate for R-1
Ms. Shiva Lakshmi, CGSC and
Mr. Siddharth Singh, Advocates
For R-2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Office Order of 5th May, 2018 (Annexure P-5) transfers petitioner from Noida to Chennai. Petitioner is Deputy Engineer with first respondent in Noida for last about ten years and vide Representation of 10th May, 2018 (Annexure P-6) petitioner had sought revocation of his transfer.

Learned counsel for petitioner submits that the impugned order is in contravention of Transfer Policy (Annexure P-7) and there is no response to petitioner's Representation (Annexure P-6).

Learned counsel for First Respondent submits that petitioner's transfer is due to immediate requirement of man power for the projects of PSSR in the Southern Region. To submit so, copy of the Communication

dated 17th April, 2018 of First Respondent has been handed over to the Court along with another Communication of 27th April, 2018 to show that petitioner's transfer has the approval of not only the Unit's head but even of the higher ups also.

The submission of petitioner's counsel is that petitioner is President of Federation of All India BHEL Engineering Officers Association and on 13th February, 2018, a Protest Note (Annexure P-1) was sent by petitioner to Director (HR) of First Respondent condemning the act of threatening Secretary General of the Association and petitioner had also made Representation of 21st March, 2018 (Annexure P-2) highlighting the anomaly in the Grade and Wage revision, which has annoyed the First Respondent, resulting in the impugned transfer order.

Both the sides have been heard and they have placed reliance upon decisions in *Mrs. Shilpi Bose and Others. Vs. State of Bihar and Others*, AIR 1991 SC 532; *State of Haryana and Ors. Vs. Kashmir Singh and Anr. etc.etc.*, (2010) 13 SCC 306 and *National Hydroelectric Power Corporation Ltd. Vs. Shri Bhagwan and Others*, (2001) 8 SCC 574. Impugned order, transfer policy, material on record and decisions cited have been perused and thereupon, it becomes evident that the challenge to transfer of an employee can be sustained, if the impugned transfer is vitiated by *mala fides* or in violation of any statutory provision.

In the instant case, the petitioner's transfer is on account of immediate requirement of man power for the projects in the Southern Region. It is so evident from the aforesaid Communications of 17th April, 2018 and 27th April, 2018 respectively. This Court is of the considered

opinion that the transfer of petitioner is not vitiated by any *mala fides* nor is in contravention of the transfer policy.

In such a situation, there is no justification to interfere with the impugned order. As such, this petition and the application are accordingly dismissed.

(SUNIL GAUR)
JUDGE

MAY 18, 2018

p

