

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2569 OF 2019

M/s.BVG India and anr.

.. Petitioners

Vs.

Maharashtra Mathadi Shramik Kamgar
Sangharsha Union

.. Respondent

Mr.K.S.Bapat i/b Mr.A.H.Fatangare, for the Petitioners.

Mr.B.S.Mahamulkar a/w Mr.Rahul D.Oak, for Respondent No.1.

CORAM : M.S.KARNIK, J.

DATE : 19th MARCH, 2019

P.C. :

. Rule. The respondent waives service. By consent,
Rule made returnable forthwith and heard finally.

2. Heard learned Counsel Shri Bapat for the petitioner-
Company and Shri Mahamulkar - learned Counsel for the
respondent.

3. The petitioner - Company is challenging the order

dated 31/01/2019 passed below Exhibit U -25 by the Industrial Court at Pune. The Respondents- workmen had filed Complaint of unfair labour practice before the Industrial Court alleging that the Company is seeking to terminate services of workmen vindictively. Various other allegations were made in the Complaint. Suffice it to observe that by the impugned order, the petitioner - Company was directed to allow 13 employees to resume duty on their respective places. Challenging this order, learned Counsel Shri Bapat representing the petitioner - Company submits that after the Industrial Court decided application - Exhibit U-2 on 24/09/2018, there was no occasion for the Industrial Court to have then issued any further directions below Exhibit U-25. For, Shri Bapat would submit that the application - Exhibit U-25 was very much pending when the application - Exhibit U-2 was decided. Not only that, according to him, all contentions raised in application - Exhibit U-25 were taken into consideration while passing the order below Exhibit U-2.

4. Learned Counsel for respondents would submit that though the 13 employees are working at Nagpur/Chandrapur, but during the pendency of the Complaint, they are sought to be transferred to Pune which action is not in accordance with law and only with a view to harass the employees concerned. During the course of hearing, learned Counsel for the respondents submits that the workmen are very poor and they would find it difficult to join at Pune. Apart from inconvenience caused to them, they will face lot of financial difficulty as well.

5. When the matter was heard on the last occasion, a suggestion was made by me to learned Counsel for the petitioner - Company Shri Bapat that instead of transferring the employees to Pune from their present place of posting which was then at Nagpur, Vardha, Chandrapur and Sangali, the workmen could be accommodated in nearby districts. In deference to this suggestion, Shri Bapat today submitted that petitioner - Company is willing to transfer the said employees in nearby districts. Shri Bapat has tendered on record various

locations where the workmen concerned could be accommodated, which location is close to the present posting of the workmen. Learned Counsel for the respondents – workmen, after taking instructions, submits that workmen concerned are willing to report at the new place of posting as suggested by the learned Counsel for the petitioner - Company and as per the orders of transfer which are placed on record. Copies of orders of transfer are taken on record and marked collectively as 'X-1'. He, however, submits that it should be without prejudice to their rights and contentions in the main Complaint which is pending before the Industrial Court. Even Shri Bapat submits that this arrangement is made in the interregnum and even their rights and contentions be kept open. Learned Counsel for the respondents - workmen further submits after joining the transferred place of posting, the Management may consider transferring the workmen more closer to their place of permanent residence as even these transfers are inconvenient. Hence the following order.

O R D E R

I) Without prejudice to the rights and contentions of the parties, the workmen would report to the transferred place of posting as per the orders which are placed on record and as indicated to the workmen concerned.

II) The workmen after reporting at the transferred place, in case, have some difficulty, they will be at liberty to make representation to the petitioner - Company which representation can always be considered on its own merits.

III) The above arrangement is purely in the interregnum made by consent of the parties and would operate during the pendency of Complaint before the Industrial Court.

IV) The Industrial Court is requested to decide the Complaint as expeditiously as possible and preferably within a period of one year from today.

V) All the rights and contentions of the parties are kept open.

VI) This arrangement is made without prejudice to the

objection of learned Counsel for the petitioner - Company that Exhibit U-25 application is beyond the scope of the Complaint (ULP).

6. Subject to what is observed hereinbefore, operative order passed below Exhibit U-25 stand substituted in terms of above directions.

7. Rule is partly made absolute and disposed of in the above terms.

(M.S.KARNIK, J.)