

ISM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 5541 OF 2019**

Shri. Pandit Bhika Sahale

.....Petitioner

V/s.

M/s. Pernod Ricard India Pvt. Ltd.

.....Respondent

WITH**WRIT PETITION NO. 5542 OF 2019**

Shri. Prakash Bhaskar Aher

....Petitioner

V/s.

M/s. Pernod Ricard India Pvt. Ltd.

.....Respondent

Mr. Avinash R. Belge for the Petitioner in person

Mr. Kiran Bapat for respondent no. 1

Mr. C. D. Mali AGP for the State

CORAM : NITIN W. SAMBRE, J.**DATE : JUNE 20, 2019.****P.C.**

Since the issue involved in both these petitions is similar and common, same are being heard and disposed of by a common order.

2 Both these petitioners on 01/04/2015 were appointed in class-IV category with respondent. A specific clause of transfer is incorporated in the appointment order which is taken recourse by the respondent-management transferring the services of the petitioners vide order dated 26/10/2018 from Nashik to Punjab (Mohali).

3 Feeling aggrieved, ULP complaint came to be lodged with the Industrial Court with an application for grant of interim relief under sub Section 30 (2) of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971. The said application came to be rejected by the order impugned dated 21/02/2019 by the Member Industrial Court. As such, this petition.

4 The submissions are, the impugned order issued with malafide intention so as to target the petitioners who are supporters of movement of formation of trade union. According to petitioners, it is because of active intervention of the petitioners, labour union is

formed in the respondent-unit and so as to victimize the petitioner, transfer order came to be issued. It is further claimed that great hardship will be caused to the petitioner as the salary of the petitioner is Rs.13,000/- and it will be difficult for them to survive in Punjab and his family at Nashik. A further submission is, no administrative exigency is spelt out from the impugned transfer orders. As such, it is prayed that the impugned order be set aside and injunction be granted.

5 *Per contra* the learned counsel for the respondent submits that the transfer orders are issued considering administrative exigency. According to him, to show bonafides, respondents are ready to pay amount of Rs. 20,000/- as offered to the petitioners in advance towards travel charges. According to respondent, no malafides could be established on record and that being so, petition is liable to be dismissed.

6 Considered the niceties of the matter.

7 Though relying upon the Judgment of this Court in the matter of **C. Prabhakaran Vs. Southern Petrochemicals Industries Corpn, Ltd., New Bombay [2001 II CLR 272], Snowcem Paints Privated Ltd. Vs. Snowcem Paints Kamgar Karmachari Union [2015 I CLR 763]** petitioner has tried to establish that the transfer of the petitioners are malafide and the Court must show indulgence.

8 The fact remains that clause 6 of the appointment order makes it known to the petitioner that their services are transferable.

9 In the aforesaid background, respondent-management has invoked the said clause against the petitioner and passed the order of transferring their services from Nashik to Punjab.

10 So far as the case of the petitioner of malafide transfer is concerned, the petitioner has failed to demonstrate through any material so as to *prima facie* infer that the services of the petitioners are transferred malafide.

11 In the aforesaid background, reliance placed by the petitioner on the Judgments cited above will be of hardly any assistance. As such, no case for interference could be noticed.

12 Both petitions fail, dismissed.

13 Mr. Bapat assures that in case if the petitioners resume their services at Mohali, no disciplinary proceedings will be continued and the same will be dropped immediately. Statement is accepted.

[NITIN W. SAMBRE, J.]