

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 262 OF 2018

Anand s/o Gopichand WaghmarePetitioner
Versus
AIR India Ltd & ors. ...Respondents

Mr. Rajeshwar G. Panchal, a/w Mr. Anjaykumar Kori & Mr.
Mohan Rawat, I/b M/s. Vidhi Partners, for the
Petitioner.
Mr. Sudhir K. Talsania, Senior Counsel, a/w Mr. Abhay
Kulkarni, for Respondent nos.2 and 3.

CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ
DATED: 11th February, 2019

PC:-

1. When the matter was listed before us on 4th September, 2018, Mr. Talsania, the learned Senior Counsel for Respondent nos.2 and 3 had made a statement that taking into consideration the peculiar facts i.e. the medical condition of the Petitioner's daughter, the Respondents on humanitarian ground are willing to continue the Petitioner at Mumbai for a period of one year. However, he had submitted that, prior to that the Petitioner should withdraw all allegations and also proceedings filed by him and give an undertaking stating therein that he would not indulge in the similar acts. The matter was kept today so as to enable Mr. Panchal, the learned Counsel for the Petitioner, to make statement in that

regard. Today, Mr. Panchal states that in spite of his persuasion, the Petitioner is not willing to give such an undertaking. Mr. Talsania, the learned Senior Counsel, has also placed on record a copy of the newspaper report of daily 'Mid-day' dated 7th February, 2019.

2. In the said report there is a reference to the proceedings before this Court, dated 4th February, 2019. It further reproduces the statement of the Petitioner that he is not willing to accept the offer made by the Respondents in as much as what has been done by him, is nothing wrong, by exposing the corruption of the Respondents.

3. Transfer is an incident of service. Normally this Court does not exercise its jurisdiction under Article 226 of the Constitution of India, to interfere with the transfer made by an employer unless a case of *mala fide* is made out. However, taking into consideration the medical condition of the Petitioner's daughter, we had suggested to Mr. Talsania, the learned Senior Counsel for the Respondents, that the Petitioner be retained in Mumbai. Mr. Talsania agreed to communicate our suggestion to the Respondents – AIR India and had made a statement on the last date that the Respondents were willing to retain the Petitioner at Mumbai.

4. However, it appears that the Petitioner is not willing to settle the matter and he wants to fight against the Respondents, on principles. However, we can not exercise our extra-ordinary jurisdiction to offer our assistance to a litigant, who is not willing to accept the same.

5. The petition is, therefore, rejected.

[N. J. JAMADAR, J.]

[B. R. GAVAI, J.]