

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12587 OF 2019

Pradeep Chandrakant Jawalkote. ... Petitioner.

V/s.

The Chairman cum Managing Director,

Food Corporation of India and others. ... Respondents.

Mr.Priyal Sarda for the Petitioner.

Mr.Hafeezur Rahman for Respondent Nos.1 and 3.

CORAM : NITIN JAMDAR AND
M.S. KARNIK, JJ.

DATE : 21 February 2020.

P.C. :

By this petition, the Petitioner has challenged the order of transfer dated 21 October 2019 whereby the Petitioner has been transferred from Maharashtra to Assam. The Petitioner is working as a Deputy General Manager (Legal) with the Respondent- Food Corporation of India in its regional office in Maharashtra.

2. The Petitioner has challenged the order of transfer relying upon the transfer policy and guidelines issued by the Circular dated 12 February 2014, more particularly clause 2.2 thereof. Relying on this clause, it is contended by the Petitioner that the normal tenure of stay of Category-I Officer at the station is of three years and normal tenure in a zone is of seven years in one

stretch but not exceeding 14 years. It is contended that though this clause refer to exigency of work for transfer before the completion of tenure, there exists no such exigency to transfer the Petitioner. He submitted that there is ample work at the place where the Petitioner is currently working.

3. Reply affidavit is filed by Respondent Nos.1 and 3 to which rejoinder is also filed by the Petitioner.

4. In the reply, a categorical stand is taken that on 22 August 2019, the Respondent- Corporation revised the sanctioned strength for the posts of Assistant General Manager (Legal) and Deputy General Manager (Legal) in its office at headquarter and other regions/ zones including the Zone- West. There being no post now, the Petitioner is transferred from the Regional Office, Maharashtra to the Regional Office, Assam.

5. The learned counsel for the Petitioner submitted that though the order by which the Petitioner is transferred from Regional Office, Maharashtra to Regional Office, Assam is after the issuance of the order revising the sanctioned strength of AGM (Legal) and DGM (Legal), it is created only to defeat the right of the Petitioner. It is also asserted by the Petitioner that the contention of Respondent Nos.1 and 3 that the post held by the Petitioner no longer exists is incorrect and it is only put forth to defeat the right of the Petitioner.

6. There is no merit in the contention of the Petitioner. No *mala fides* alleged in the petition. The order of transfer is not by way of punishment nor that there is any stigma attached to it. The ground of transfer is the revised sanctioned strength. The argument of policy being created only to defeat the right of the Petitioner is too far-fetched. This sanction order is applicable to all regions/ zones of the Respondent- Corporation all over India. This document shows that, for Regional Office of Maharashtra of Zone- West, as per the revised sanctioned strength, the post of DGM (Legal) is not available. The Petitioner is not able to show from the order revising sanctioned strength dated 22 August 2019 that the post which the Petitioner holds, continues after August 2019.

7. In these circumstances, the impugned order being purely due to an administrative exigency, no interference with the same is warranted in writ jurisdiction of this Court. If the Petitioner has any other ground and if it is permissible in law, the Petitioner can always make a representation to the Respondent-Corporation which representation, like of any other employee, will have to be considered by the Respondent- Corporation as per Rules.

8. With aforesaid observation, writ petition is disposed of.

(M.S. KARNIK, J.)

(NITIN JAMDAR, J.)