

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2651 OF 2019

Nagpur District Security Guard Board, Nagpur
through its President V. R. Lokhande & another

vs.

Dipchand s/o Vithoba Meshram

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri. M. R. Pillai, counsel for petitioners.
Shri. A. R. Ingole, counsel for respondent.

CORAM : MANISH PITALE J.

DATED : 27/01/2020

By this writ petition, the petitioner has challenged orders passed by the Industrial Court at Nagpur. The respondent had filed complaint before the Industrial Court challenging an order termed to be a transfer order, whereby the petitioner was transferred from an establishment at Nagpur to another establishment at Katol. The petitioners are a Board, which provides Security Guards to various establishments.

2. In the pending complaint an application for interim relief was filed (Exh.U-2) on behalf of the respondent. It was claimed that as per the seniority list of the petitioner board, persons junior to the respondent were not disturbed, while the respondent was transferred from Nagpur to Katol. The Industrial Court

appears to have been impressed with the said seniority list and on that basis interim order was granted to the respondent in the following terms :-

“(1) The application Exh.U-2 is allowed.

(2) The effect and operation of impugned transfer order is stayed till disposal of the present complaint.

(3) The respondent is directed to continue the complainant in Nagpur till disposal of the complaint.

(4) The proceeding is expedited.”

3. The petitioners had filed a review application before the Industrial Court stating that the document said to be a seniority list by the respondent, was not a seniority list, because of the Board only facilitates establishments by providing Security Guards and no such seniority list was maintained by the Board.

4. This contention raised on behalf of the petitioners was not accepted by the Industrial Court and the review application was also dismissed.

5. This Court issued notice for final disposal in the writ petition on 01/04/2019. Thereafter, by order dated 11/10/2019, this court recorded relevant subsequent development in the matter, to the effect that now the respondent had been posted in the office of the Food Corporation of India at Ajni, Nagpur, on a vacant post. This Court recorded that such continuance of the respondent at Nagpur appeared to be in consonance with

direction No.3 given by the Industrial Court in the impugned order quoted above. On this basis it was directed by this Court that no coercive action would be taken against the respondent for implementing the impugned order dated 01/11/2018, passed by the Industrial Court.

6. Although the learned counsel appearing for the respondent has sought to defend the impugned order and he has insisted that the respondent is entitled to continue in the establishment that he was working before the transfer order was issued, this Court is of the opinion that since petitioners have ensured that the respondent continues at Nagpur during the pendency of the complaint by posting him in a vacant post at Ajni, Nagpur, the grievance raised by the respondent and hence insistence upon going back to the earlier establishment appears to be unreasonable.

7. In view of the above, particularly the said subsequent development, this writ petition is partly allowed. The direction No.2 in impugned order dated 01/11/2018 is quashed and set aside, particularly in view of the fact that direction No.3 has been already complied with by petitioners herein.

8. It is directed that the respondent shall not be disturbed from his present posting during the pendency of the complaint before the Industrial Court. At the same time, the Industrial is directed to finally dispose of the

complaint filed by the respondent expeditiously and in any case within a period of three months from today.

9. Needless to say, in view of the order passed by this Court today, any proceeding initiated by the respondent for disobedience of the impugned order passed by the Industrial Court shall remain in abeyance during the pendency of the complaint.

JUDGE