

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 WRIT PETITION NO.4731 OF 2021

BHIKA KARBHARI AAHER
VERSUS
MAHARASHTRA STATE ROAD TRANSPORT CORPORATION AND ANOTHER

Mr.P.V. Barde, Advocate for the petitioner.

CORAM : N.J.JAMADAR, J.
DATE : 16.03.2021

PC :-

01. Heard learned Counsel for the petitioner.

02. The challenge in this petition is to an order dated 02.03.2021, whereby the learned Member, Industrial Court, Ahmednagar rejected the application for interim relief (Exh.U-2), in Complaint (ULP) No.1 of 2021, preferred by the petitioner seeking relief of quashing transfer order dated 26.12.2020 from Shrirampur to Dhule.

03. The petitioner is working as a conductor with the respondents. The petitioner came to be served with a second show-cause notice pursuant to the enquiry report submitted by the Enquiry Officer, wherein the petitioner was found guilty of misconduct. The petitioner preferred Complaint (ULP) No.25 of 2020 before the Labour Court. The petitioner is protected by an ad-interim relief.

04. It is the claim of the petitioner that the petitioner is due for retirement on 30.06.2021. In terms of the stated policy of the respondents, the officers/officials, who have one year of service for superannuation, shall not be transferred despite completion of tenure of posting at a particular place. Yet, by the impugned order dated 26.12.2020, the petitioner came to be transferred to Dhule Depot., in breach of the policy and to wreck the vengeance.

05. Mr. Barde, learned Counsel for the petitioner urged that the petitioner is being penalized for having availed the remedies under law. Since the petitioner challenged the second show-cause notice by preferring Complaint (ULP) No.25 of 2020 and obtained an ad-interim relief, the respondent malafide transferred the petitioner. The learned Member, Industrial Court, has not adequately adverted to this aspect of the matter. Attention of the Court was invited to the transfer policy, especially sub-clause (4) of clause (9) thereof, which provides that the officers/officials, who have one year of service for superannuation shall not be transferred.

06. I am not persuaded to accede to the submissions

on behalf of the petitioner. Indisputably, for the proved misconduct the second show-cause notice is given to the petitioner. The policy directives for transfer, which operate in case of employees, in normal circumstances, cannot be elevated to such a pedestal, as to divest the employer of the authority to transfer, when serious allegations of misconduct are alleged to have been proved. In the circumstances, the learned Member, Industrial Court was justified in declining to grant interim relief. Hence, the petition does not deserve to be entertained.

07. The petition stands dismissed.

[N.J.JAMADAR, J.]