

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.105 OF 2023

Arun s/o Bapurao Kose,
Aged about 48 years.
Occu. Service, R/o Plot No.5
Bajrang Nagar, Opp.
Siddheshwar Hall Gate-1,
Manewada Road, Nagpur 440027

... Petitioner

-vs-

1. The Union of India,
Secretary/Defence Production,
Ministry of Defence, South Block
New Delhi 110011
 2. The Directorate of Ordnance
(Co-Ordination & Services),
Ministry of Defence,
Department of Defence,
Department of Defence Production,
10A, S. K. Bose Road,
Kolkata 700 001
 3. The Chairman & Managing
Director, Yantra India Limited
Nagpur 440021
 4. The Director (HR) Yantra India Limited,
Nagpur 440021
 5. The General Manager,
Ordnance Factory, Ambajhari,
Nagpur 440021
 6. The General Manager,
Ordnance Factory, Bhusawal
- ... Respondents

Shri P. S. Sahare, Advocate for petitioner.

Shri C. J. Dhumane, Advocate for respondent Nos.1, 5 and 6.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, JJ.

DATE : January 06, 2023

Judgment : (Per : A. S. Chandurkar, J.)

Heard.

The challenge raised in this writ petition is to the order dated 21/12/2022 passed by the learned Member, Central Administrative Tribunal, Nagpur in Original Application No.804/2022. By the said order the challenge raised to the order of transfer dated 20/09/2022 by which the petitioner was transferred from the post of Junior Works Manager, Ordnance Factory, Ambajhari, Nagpur to the Ordnance Factory, Bhusawal has been rejected.

2. It is the case of the petitioner that he has been singled out for being transferred out of Nagpur. The justification sought to be given by the respondent that the experience gained by the petitioner was the cause of the order of transfer was not acceptable for the reason that there were various other employees who had obtained such training and who could have been transferred instead of the petitioner. The petitioner's wife was in service with Zilla Parishad Nagpur and his daughter was differently abled. Transferring the petitioner in such manner caused prejudice and therefore there was no justifiable reason to issue the order of transfer. Reference was made to various transfer

orders issued to indicate that sufficient time had been granted to those employees to report at the place of transfer while on the other hand the petitioner was granted time of only ten days to report at Bhusawal. The representation made by the petitioner had not been properly considered. The Tribunal failed to consider the aforesaid relevant aspects and dismissed the Original Application. It was thus submitted that the order passed by the Tribunal be set aside and the petitioner's transfer be cancelled.

3. We have heard the learned counsel for the petitioner and we have perused the documents placed on record. It is undisputed that the petitioner has been serving at Nagpur for last nineteen years. In the representation made by the petitioner dated 21/09/2022 he had sought reconsideration of the order of transfer by assigning various reasons that have been referred to herein above. The said representation was considered and with the approval of the Competent Authority a Speaking Order came to be passed on 28/09/2022. It was noted that the petitioner had gained experience in drawing and designing and he was working in CDD and Research and Development Section of the Ordnance Factory. Having been imparted training in AUTO CAD he was found suitable for transfer to Bhusawal on functional requirement. Thus on the ground of public interest his

services came to be transferred noting that there was an urgent functional requirement at the place of transfer. Moreover, the Office Memorandum dated 30/09/2009 issued by the DOPT that when a spouse was employed under the Central Government and other spouse is employed under the State Government, the spouse employed under the Central Government may be posted to the same station or if there is no post in that station, in the State where a spouse is posted has been considered and the petitioner has been retained in the State of Maharashtra. It is stated that in the interest of administration, the transfer had been effected.

4. The Tribunal considered these aspects and noted that the transfer could not be said to be vitiated on the grounds urged by the petitioner. The petitioner's wife and parents were staying at Nagpur and they could take care of his daughter. The order of transfer has been implemented after which the petitioner was relieved on 20/09/2022. In absence of any ground made out to interfere with the order of transfer, the Original Application was rejected.

On considering the entire material on record we do not find any justifiable reason to interfere with the order of transfer. The fact that the petitioner has served at Nagpur for about nineteen years coupled with the fact that the Ordnance Factory at Bhusawal had

functional requirement of the petitioner's services are in our view sufficient to sustain the transfer order. There are no allegations of malafides made by the petitioner. Mere fact that some other employees were serving at Nagpur for a longer period cannot be a reason to upset the transfer order passed by the respondent on 20/09/2022. We are therefore not inclined to interfere in writ jurisdiction.

The writ petition is thus dismissed with no order as to costs.

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)

Asmita