



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

Writ Petition No.3448 of 2023

Jaykumar S/o Janardhan Ingole

Versus

Maharashtra State Road Transport Corporation, Mumbai and another

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

Court's or Judge's order

Shri A.J. Salway, Counsel for Petitioner.
Shri P.S. Gavai, Counsel for Respondents.

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

DATE : 26th SEPTEMBER, 2023.

1. Heard.
2. The challenge raised by the petitioner is to the order of transfer dated 22-5-2023 by which the services of the petitioner who is serving as Depot Manager came to be transferred from Arvi Depot, Wardha Division to Bramhapuri Depot, Gadchiroli Division.
3. In challenge to the order of transfer, the petitioner has raised two-fold contentions – firstly, the order of transfer has been issued by the General Manager and not by the Vice President and Managing Director who alone is competent to issue order of transfer of a Class-II officer and secondly, the petitioner having been transferred at Arvi on his own request on 20-5-2021 has been again transferred prior to completion of his normal tenure. The order of transfer has been effected to accommodate one Shri Sandeep Haridas Pawar. Under the policy of transfer dated 3-5-2014, there is no exceptional case to have transferred the petitioner prior to completion of his tenure. On these grounds, it is submitted that the transfer of the petitioner is liable to be set aside.
4. In reply, it is submitted by the learned counsel for respondents that the order of transfer has been issued on the directions of the Vice President and

Managing Director which could be seen from the office note dated 19-5-2023. The transfer of the petitioner was proposed from Arvi Depot to Bramhapuri Depot and on the directions of the Vice President and Managing Director the order of transfer came to be issued. Further, in accordance with Clause 8(e) of the Guidelines, since the post of Depot Manager at Bramhapuri was vacant, the petitioner came to be transferred there. Shri Sandeep Haridas Pawar who was earlier holding the said post had been transferred in October 2021, but that order was stayed by this Court in Writ Petition No.4431 of 2021 (*Sandeep Haridas Pawar Versus The Maharashtra State Road Transport Corporation, through its Vice-Chairman and Managing Director, Mumbai*). Since the said order of transfer was withdrawn, the post at Bramhapuri was vacant on which the petitioner was transferred. The learned counsel for the respondents has placed reliance on the decisions of the Hon'ble Supreme Court in *Shilpi Bose (Mrs) and others Versus State of Bihar and others* [1991 Supp (2) SCC 659], *Union of India and others Versus S.L. Abbas* [(1993) 4 SCC 357], and *State of M.P. and another Versus S.S. Kourav and others* [(1995) 3 SCC 270] to support his contentions.

5. On hearing the learned counsel for the parties, we find that as per the office note dated 19-5-2023, the petitioner's transfer is proposed by the Vice President and Managing Director. This is in accordance with the Transfer Guidelines dated 3-5-2014 which state that for Class-I and Class-II (Senior) Officers, the Competent Authority is the Vice President and Managing Director. Merely because the communication in that regard is signed by the General Manager it would not mean that the order of transfer is not on the directions of the Vice President and Managing Director. It is thus clear that the Competent Authority has transferred the services of the petitioner.

6. As regard the policy of transfer, it is seen that as per Clause 8(e), in exceptional circumstances, including vacancy caused on account of superannuation, promotion, resignation, demotion, reinstatement or transfer, a posting on the vacant post can be made. It is seen that since the earlier order of transfer dated 18-10-2021 issued to Shri Sandeep Haridas Pawar transferring

him to Bramhapuri was cancelled, that post became vacant. It is on the said post that the petitioner has been transferred. Though it is urged by the learned counsel for the petitioner that the petitioner has been transferred to accommodate said Shri Sandeep Pawar, there is no material in that regard. The earlier transfer of the petitioner is on his own request since his wife was also serving at Wardha Depot. Perusal of the decisions of the Hon'ble Supreme Court relied upon by the learned counsel for the respondents indicates that as an exigency of service the employer has right to transfer an employee in accordance with the relevant Guidelines/Instructions. In the absence of any specific case of *mala fide* being made out, we do not find any reason to interfere with the order of transfer.

7. For the aforesaid reasons, there is no case made out to interfere in writ jurisdiction. The writ petition therefore stands dismissed. The petitioner is granted time of ten days to report at the transferred place.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)