



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

WRIT PETITION NO. 4279 OF 2023

(Sameer s/o Milan Banarjee Vs. MOIL Limited, MOIL Bhavan 1-A, Katol Road, Nagpur-13 & Ors.)

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

Court's or Judge's order

Shri V.P. Marpakwar, Advocate for the petitioner.
Shri S.S. Ghate, Advocate for the respondents.

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

DATE : SEPTEMBER 14, 2023

Heard.

2] The challenge raised in the present Writ Petition is to the order of transfer dated 30/6/2023 that has been issued by respondent no.3 – General Manager (Personnel), Manganese Ore (India) Limited (MOIL), Nagpur. By the said order, the petitioner who is serving as Chief Manager (Personnel) has been transferred from the head office at Nagpur to Ukwa Mine, District – Balaghat (M.P.). The petitioner made a representation dated 3/7/2023 to the General Manager (Personnel). While issuing notice in the Writ Petition, a direction was issued to the General Manager (Personnel) to decide the said representation. On 13/7/2023, the said representation has been decided and the request made by the petitioner for re-consideration of his posting was not accepted. In the said backdrop, the learned Counsel for the parties were heard.

3] Shri V.P. Marpakwar, learned Counsel for the petitioner submitted that the petitioner's transfer was contrary to the transfer policy of MOIL. Inviting attention to the Standard Operating Procedure for transfer, it was submitted that routine transfers were permissible from January to March. The order of transfer dated 30/6/2023 was therefore a mid session transfer not permissible under the Standard Operating Procedure. The petitioner has School going children who had taken admission in Schools at Nagpur. There was no facility of education available at Ukwa Mine and on this count, the petitioner's transfer would cause hardship and inconvenience to the family. The learned Counsel submitted that it was only the petitioner who was chosen to be transferred despite the fact that seniors to him had been retained at the head office. Even if it was assume that

for every 500 employees an Executive was necessary, it was submitted that since there were 498 employees at Ukwa Mine, presence of one Executive Officer would suffice. Such Officer was present at the said Mine and there was no necessity of posting the petitioner there. In that regard, a reference was made to the rejoinder filed by the petitioner with a view to indicate that the petitioner's transfer was unwarranted. The representation dated 3/7/2023 clearly indicated the need for continuing the petitioner at Nagpur so as to take care of his aged parents who require medical assistance at Nagpur. Without considering the said representation in its proper perspective, the same was rejected. It was thus submitted that the petitioner's transfer being contrary to the transfer policy of MOIL, a case was made out to interfere in writ jurisdiction.

4] Shri S.S. Ghate, learned Counsel for the respondents supported the order of transfer. He denied that the petitioner had been singled out for transfer. In the order dated 30/6/2023, besides the petitioner, three other Officers had been transferred and all of them joined their respective duties. It was submitted that considering the satisfactory discharge of duties by the petitioner at Nagpur, his services were needed at Ukwa Mine. It was for that reason that the petitioner was posted there. The said Mine was under the process of expansion and for such purpose, the petitioner's need was felt there. The respondents desire to utilize the experience of the petitioner at the said Mine and hence he was posted there. His transfer was in the interest of Organization and for administrative exigencies. Since there were no allegations of malafides or victimization, there was no reason to interfere with the order of transfer. The learned Counsel placed reliance on the decisions in i) *Shivaji A. More Vs. Estate Manager, Maharashtra State Farming Corporation Ltd. And Another* [1995 SCC OnLine Bom 527]; ii) *State of M.P And Another Vs. S.S. Kourav And Others* [(1995) 3 SCC 270]; iii) *MSEB Kamgar Sena, through its President/Secretary, Nagpur & Anr. Vs. Managing Director, Maharashtra State Power Generation Co. Ltd. & Ors.* [2008 II CLR 444]; iv) *Airports Authority of India Vs. Rajeev Ratan Pandey & Ors.* [2009 III CLR 136]; and v) *Rajasthan Patrika Pvt Ltd. Vs. Ajay Kumar Bihari & Anr.* [2010 I CLR 805].

5] Having heard the learned Counsel for the parties and having perused the documents on record, we do not find that there is any case made out to interfere with the transfer of the petitioner. Undoubtedly, the petitioner has been serving at the head office at Nagpur since December – 2015. With the experience gained by the petitioner, the respondents desire to utilize his services at U kwa Mine that was sought to be expanded. It is the categoric stand of the respondents that in the light of the experience gained by the petitioner, his need at U kwa Mine was felt. Along with the petitioner, three other Officers have also been transferred. Though under the transfer policy, the period of transfer has been indicated from January to March, there is no bar to effect a transfer if there is an administrative exigency. The employer is the best Judge to consider its needs and the requirement of posting an experienced hand at the place where such need is felt. The petitioner having spent almost eight years at the head office at Nagpur, it cannot be said that he alone has been chosen for being transferred. On the contrary, the respondents have clearly indicated the need of petitioner's experience at the U kwa Mine. In absence of any allegation of malafides or victimization, there is hardly any scope to interfere in a routine order of transfer that is occasioned on account of administrative exigency. The legal position in that regard is well settled as is seen from the ratio of the decisions cited above.

6] For the aforesaid reasons, the Writ Petition stands dismissed with no order as to costs. The petitioner is granted time of one week to report at the place of transfer.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)

SUMIT