

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.14278 OF 2024

Rasika Avinash Parab

....Petitioner

V/S

Maharashtra State Road Transport
Corporation

....Respondent

Ms. Pavitra Manesh *for Petitioner.*

Mr. Nitesh V. Bhutekar a/w Mr. Karan Singh Bhadaria a/w
Ms. Priyanka Lanke *for Respondent.*

CORAM: SANDEEP V. MARNE, J.

DATE : 17 OCTOBER 2024.

P.C.:

1. The Petition challenges order dated 18 September 2024 passed by Member, Industrial Court, Kolhapur, rejecting the application at Exhibit-U2 filed by the Petitioner seeking interim stay on the transfer order dated 3 November 2018.

2. I have heard Ms. Manesh, the learned counsel appearing for Petitioner and Mr. Bhutekar, the learned counsel appearing for Respondent-MSRTC.

3. After having considered the submissions canvassed by the learned counsel appearing for parties, it appears that Petitioner is aggrieved by order dated 3 November 2018 by which she is

transferred from Kankavali Depot to Vengurle Depot on administrative grounds. The Petitioner contends that though the order was issued on 3 November 2018, the same was served on her in July 2020, which is the reason why she approached Industrial Court by filing Complaint (ULP) No.100 of 2023.

4. Ms. Manesh would contend that as per the transfer policy formulated by the Respondent-MSRTC, administrative transfers are to be effected during March/April after publishing list of eligible employees for transfer and after giving three choice stations. She would submit that the order dated 3 November 2018 is issued midterm in violation of the transfer guidelines dated 3 May 2014. She would submit that neither any list of eligible officers is published nor Petitioner is given choice of three stations.

5. However it appears that the Respondent-MSRTC has invoked provisions of Circular dated 1 February 2017 under which conductors committing acts of temporary misappropriation on three occasions are made liable for transfer to another Depot and those who are found to have indulged in act of temporary misappropriation on four occasions are to be transferred in a different Division. In the Written Statement, Respondent took a specific plea that Petitioner is found to have indulged in acts of temporary misappropriation on three occasions and accordingly she has been transferred from Kankavali to Vengurle Depot.

6. Since the impugned transfer is issued not as a matter of routine rotation of employees, the usual transfer guidelines published on 3 May 2014 would not apply to Petitioner's transfer. She has been transferred by taking into consideration special circumstances, she being involved in acts of temporary misappropriation on three occasions.

7. Contention of Ms. Manesh that the transfer order passed on 3 November 2018 is served suddenly on the Petitioner in July 2023 does not cut any ice. If there is delay in serving the transfer order, the same has inured to the benefit of the Petitioner who has continued to work in Kankavali during five year long gap period between 2018 and 2023. No doubt, the action of Respondent in serving transfer order after gap of five years is bit odd. However the same, by itself, would not be a reason enough for interfering in the same.

8. Ms. Manesh has relied upon judgment of Division Bench of this Court in ***Kunal Satish Dinde vs. State of Maharashtra***¹ which has been rendered in the light of provisions of sections 3 and 4 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (**Transfer Act**). The judgment therefore would have no application to the present case. It is not necessary for the employer

1 2023 DGLS (Bom.) 2910

to indicate the exact reasons for transfer of the employee and it is permissible to support an order of transfer by indicating the reasons in Affidavit. The judgment in ***Kunal Satish Dinde*** (supra) is rendered in the light of specific requirement of section 4(5) of the Transfer Act requiring recording of reasons in writing. There is no such requirement in the transfer guidelines issued by the Respondent-MSRTC.

9. Reliance of Ms. Manesh on judgment of Constitution Bench in ***Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others***² has also no application to the present case. The principles enunciated by the Apex Court in ***Mohinder Singh Gill and another*** (supra) essentially applies to an order passed in statutory exercise of power. The principles enunciated by Constitution Bench in ***Mohinder Singh Gill and another*** (supra) cannot be stretched to mean that reasons for transfer must be reflected in the order.

10. Considering the overall conspectus of the case, I am of the view that no case is made out for interference in the order passed by the Industrial Court. Writ Petition is accordingly **rejected**.

(SANDEEP V. MARNE, J.)

² AIR 1978 SC 851