IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Lanusungkum Jamir
And
The Hon'ble Justice Rai Chattopadhyay

MAT 1143 of 2025
With
CAN 1 of 2025

Prasanta Mukherjee & Ors.
Vs.
Food Corporation of India & Ors.

For the Appellants	: Mr. Samiran Mandal
	: Mr. Mrinal Kanti Sardar
	: Mr. Nitish Samanta
	: Ms. Sreemoyee Datta
	: Ms. Aparna Mandal
For the respondents	: Mr. Kamal Kr. Chattopadhyay
	: Mr. Tanjir Ali
	: Ms. Rimi Chatterjee
Heard on	**: 28/07/2025**
Judgment on	**: 04/08/2025**

Rai Chattopadhyay, J. :-

1. In the instant appeal, the appellants have challenged an order of the Hon'ble Single Judge dated July 4, 2025, delivered in the writ petition no. WPA 23337 of 2022. The applicant/applicants have been the petitioners in the writ petition as mentioned above. To state in a nutshell, the grievance of the appellants/applicants in the instant appeal is that the Hon'ble Single Judge, in spite of accepting that no dispute between the parties should survive in view of the settlement arrived at between them, has directed and given liberty to the respondent/FCI, to proceed with all administrative action necessary for the proper functioning of the FCI, in accordance with law.

2. Learned advocate, appearing for the appellants has submitted that the appellants are the contractual casual labourers of the respondent FCI, posted at food storage depot, Bikna, District Bankura. They had filed the writ petition as above seeking relief that no effect should be given to the letter of the Manager, Industrial Relation – Labour, FCI dated October 12, 2022, thereby discontinuing the engagement of the appellants as contractual casual labourers, at the place where they are now working and also seeking appropriate direction for regularisation of their employment with the respondent FCI. That, during pendency of the said writ petition, the parties have come to a settlement in a meeting dated August 22, 2023, by dint of a resolution dated same, that is August 22, 2023. It is submitted that according to the settlement arrived at between the parties, it has been settled and decided unanimously that the appellants would continue to work in FCI till the normal age of superannuation as applicable to category-IV employees of the Corporation. That, such decision was particularly in compliance with the order of the Supreme Court dated January 14, 2010 and of this Court dated December 12, 2022. As per decision in the said meeting, the provisions under the Payment of Gratuity Act 1972, were made applicable in case of the appellants and also that the Divisional Manager, Bankura would issue an appropriate certificate. It has been submitted and also endorsed in the said resolution, that the settlement so arrived at by dint of the said resolution was acceptable to all the parties.

3. Learned advocate for the appellants has submitted that after being a consenting party in the said resolution dated August 22, 2023, there would not be any scope for the respondent FCI to divert from what has been settled. In such circumstances, the Court accepts that parties have entered into an unanimous settlement. Despite the same, it is submitted, that the Court has directed in a manner which has an effect of being diverted from the already settled terms and conditions, as mentioned above, so far as the service conditions of the appellants are concerned. Allegedly, following the impugned order, an order of transfer of the appellants has been issued, by dint of which the appellants have been directed to demit office at their present place of posting and join elsewhere. According to the appellants, in terms of the orders of this Court and the Supreme Court as well as in terms of the settlement arrived at between the parties, the respondent/FCI would be obliged to engage the appellants for the rest of their service period, at the place where they are presently working and in discharge of the duty, which they are presently carrying on. Therefore, liberty granted to the respondent in the impugned order, to proceed to take all administrative actions and the subsequent order of transfer removing them from their present place of posting are contrary to the orders of the Court as mentioned above and the settlement arrived at between the parties, the appellants have argued. It is submitted that there cannot be any administrative action taken by the respondent/FCI, touching the service conditions of the present appellants. That, to that extent, the impugned order dated July 4, 2025, is erroneous and liable to be set aside. Also, that the subsequent order of transfer of the present appellants being de-hors the scope of the previous orders of this Court and the Supreme Court and also the terms of settlement entered into between the parties, is liable to be quashed and set aside. The appellants have prayed for necessary orders accordingly.

4. Mr. Chattopadhyay, learned advocate has represented the respondent/FCI. The contention of the appellants of suffering of prejudice due to the impugned order as well as the subsequent transfer order issued by the respondent, has been vehemently denied by him. He says that the settlement entered into between the parties has been to the effect of continuation of service of the present appellants with the respondent till the normal age of superannuation as per rules, as is applicable to the category-IV employees of the Corporation. He further says that so far as the issue of transfer of an employee is concerned, the same is the prerogative of the respondent/ employer. He submits that unless an order of transfer is shown to be malafide or absolutely illegal, the Court would normally be slow to interfere into the same. Mr. Chattopadhyay says that the transfer order is not going to prejudice the appellants in any manner whatsoever, as the employer shall maintain the service conditions of the appellants intact, at the transferred place, in terms of the settlement entered into between the parties. He says, that the employee cannot claim to remain at the same place of posting or discharge the same duty for his entire service period, so far as his transfer order is not alleged to be marred with malice, malafide or illegality. He indicates that in the instant case, there is no such allegation as against the order of transfer. Therefore, according to the respondent/FCI, the applicants cannot restrain or disobey the order of transfer, citing the terms of mutual settlement between themselves and the employer, so far as the order of transfer is issued in regular course of business of the employer and does not suffer from any illegality whatsoever. Mr. Chattopadhyay submits the that the instant appeal is only misconceived and has been filed with the malaise intention to frustrate the transfer order, which the appellants could not do, in accordance with law. He insists that the appeal be dismissed.

5. In his argument, Mr. Chattopadhyay has relied on to the following judgments:

i) ***Kendriya Vidyalaya Sangathan Vs. Damodar Prasad Pandey and Others*** reported at ***(2004) 12 SCC 299***

ii) ***Union of India and Others Vs. S.L. Abbas*** reported at ***(1993) 4 SCC 357***

iii) ***National Hydroelectric Power Corporation Ltd. Vs. 1. Shri Bhagwan 2. Shiv Prakash*** reported at ***(2001) 8 SCC 574***

6. This is not the first round of litigation by the present appellants. This Court in W.P.No. 1491 of 1997, vide judgment dated June 23, 1998, has directed that the respondent should pay wages, including arrears at bar with the wages of the class-IV staff of the Corporation.

7. Later on, on October 12, 2022, the respondent has issued a letter discontinuing engagement of contract casual labour [CCL], that is the present appellants and engagement of labourers if need be so, through the handling transport contractor [HTC] as per model tender form [MTF]. Challenging the said order the writ petition as mentioned above being WPA 23337 of 2022 was filed by the present appellants. An order of the Court in the said writ petition, that is dated December 12, 2022, is worth mentioning. Let the relevant [portion be quoted as herein below:

> ***"The writ petitioners have continued in service for more than 33 years. Prima facie there appears to be no contractor or agency involved in connection with engagement of the petitioners for the present. There appears to be an employee-employer relationship, at least in so far as the casual labourers who were parties in the aforesaid civil appeal and FCI, the exact relationship though, can only be decided on exchange of affidavits. A right has therefore accrued in favour of the casual labourers, eleven (11) of whom are petitioners in this present application for being entitled to wages as per directions issued by the Hon'ble Supreme Court. Since, it has been admitted on behalf of the FCI through their Senior Counsel, that the relationship between the petitioners and the FCI has not been determined, I do not think any further order requires to be passed in this writ application at this stage, save to the extent that the respondents shall continue to make available all such benefits to the petitioners, as has been directed to be***

> ***paid/disbursed, in terms of the order dated 14th October 2010 passed by the Hon'ble Supreme Court in Civil Appeal nos. 9472-9473 of 2003."***

8. Hence, the court directed that the respondent shall continue to make available all benefits to the petitioner as has been directed by the Supreme Court to be paid/disbursed to them, in order dated October 14, 2010.

9. In the order dated October 14,, 2010 passed by the Supreme Court in Civil Appeal No. 9472–9473 of 2003, the Supreme Court has inter alia, considered the issue of payment of wages and has directed revision of pay, including payment of retirement benefits to the contract casual labourers [CCL], which included the petitioners there in, that is the present appellants.

10. Since thereafter, undisputedly, the directions of the Courts as mentioned above, have been duly complied with by the respondent/FCI. In the writ petition No. WPA 23337 of 2022, the present appellants have prayed for the relief of regularisation of service and setting aside of the letter of the respondent dated October 12, 2022, which in effect had discontinued engagement of the present appellants as the contract casual labourers [CCL]. This dispute between the parties has been set at rest by dint of the mutual unanimous settlement arrived at by them vide the resolution dated August 22 2023. In the same, on one hand uninterrupted continuation of service of the appellants till they reach the normal age of superannuation was settled, whereas on the other hand, the service benefits of the appellants were stipulated to be that of a category-IV staff of the respondent/FCI.

11. On careful perusal of all the orders of the Court as discussed above and the terms of the all party settlement dated August 22, 2023, the court is unable to find any iota of decision, either by the Court or by the parties themselves in their mutual settlement, that the appellants herein shall henceforth be entitled to be placed at the same place of posting as they are working at on the date of settlement or that the respondent employer can never take any step for administrative exigency, to transfer the said employees to any other place of posting. This Court finds that the employer is bound by the orders of the Court as well as the terms of the said mutual settlement, to confer to the appellants, the benefits treating them to be akin to a particular category of employees in the Corporation. Also, that the employer is obliged to continue with the service of the appellants, till the normal age of superannuation of a category-IV employee of the Corporation. As a matter of fact, these obligations of the employer arising due to the Court's order or terms of settlement, is acknowledged and accepted by the respondent/FCI, in the instant appeal. However the respondent says that its obligation extends to this extent and not beyond.

12. This Court is in concurrence with the said submissions of the respondent and finds force in the same. Under no stretch of imagination, one can find any right granted or guaranteed to the appellants by dint of the Court's order or in the terms of the settlement, that they would be immuned from being transferred for administrative exigency. On the contrary, the law is settled otherwise. The employer possesses an inherent and broad power to effect transfers of employees for administrative exigencies, which is an essential incident of service. Such transfers are primarily governed by the principles of administrative necessity, public interest, and bona fide exercise of power, with Courts exercising limited review only to prevent mala fide acts, violations of statutory rules, or arbitrary decisions.

13. In this regard, relevant portion of the judgments referred to by Mr. Chattopadhyay are necessary to be mentioned.

> In the case of ***S.L. Abbas (Supra)***, the Supreme Court has held:
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> > ***"7. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the court cannot interfere with it."***
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> In the case of ***National Hydroelectric Power Corporation Ltd (Supra),*** the Supreme Court speaks as follows:-
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> > ***"5. It is by now well settled and often reiterated by this Court that no government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only***

> ***an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals cannot interfere with such orders as a matter of routine, as though they are the appellate authorities substituting their own decision for that of the management, as against such orders passed in the interest of administrative exigencies of the service concerned."***

Lastly, the case has been referred to of ***Kendriya Vidyalaya Sangathan (Supra).*** The relevant portion thereof is:-

> ***"4. Transfer which is an incidence of service is not to be interfered with by courts unless it is shown to be clearly arbitrary or visited by mala fide or infraction of any prescribed norms of principles governing the transfer (see Abani Kanta Ray v. State of Orissa. Unless the order of transfer is visited by mala fide or is made in violation of operative guidelines, the court cannot interfere with it (see Union of India v. S.L. Abbas). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any operative guidelines or rules the courts should not ordinarily interfere with it. In Union of India v. Janardhan Debanath it was observed as follows: (SCC p. 250, para 9)***
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> ***"No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities***

> ***substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in National Hydroelectric Power Corpn. Ltd. V. Shri Bhagwan."***

14. It is the considered opinion and finding of this Court that in the guise of challenging the impugned order dated July 4, 2025 of the Hon'ble Single Judge, the appellants have actually attacked the subsequent order of them for transfer. However, the Court is constrained to hold that the appellant would not be empowered under the law to do the same, in the instant appeal. The spirit of the order of the Hon'ble Single Judge as impugned in this appeal is that the writ petition would become infructuous in view of the mutual settlement arrived at between the parties dated August 22 2023. Therefore, the Court has proceeded to dispose of the writ petition on the ground of said settlement. Additionally, the Court has added that the employer would be at liberty to proceed with all administrative action, as necessary and lawful. Had not the Court mentioned or granted this liberty to the employer, the situation would not have been any different at all. The employer while working within its lawful ambit would have always been at liberty to take necessary decision in exercise of its control and power as regards the entire work force in exigency, though only fairly and in accordance with law. In this case however, there is no allegation and could not have been, that the transfer order of the appellants was not in conformity with the law. Therefore, virtually the portion of the impugned order against which the appellants are aggrieved bears no real effect as against the interests of the appellants or prejudices their rights in any manner whatsoever.

15. For all as discussed above, the Court finds no merits in the instant appeal.

16. Hence MAT No. 1143 of 2025 is dismissed.

(Lanusungkum Jamir, J.)

(Rai Chattopadhyay, J.)

<u>Later</u>

After delivery of judgment, Mr. Samiran Mandal, learned Advocate appearing for the appellant has sought for stay of the judgment; to which Mr. Chattopadhyay, learned advocate appearing for respondent (FCI) raises objection.

After considering submissions of both the learned advocates, the prayer of the appellant as above, is rejected.

(Lanusungkum Jamir, J.)

(Rai Chattopadhyay, J.)